DOCUMENT RESUME

ED 263 729 EC 181 000

TITLE	A Training Manual for Surrogate Parents.
INSTITUTION	Minnesota Curriculum Services Center, White Bear Lake.; PACER Center, Inc., Minneapolis, MN.
SPONS AGENCY	Minnesota State Dept. of Education, St. Paul.
PUB DATE	[84]
NOTE	273p.; Credit to the Indiana Surrogate Parent Program and Department of Public Instruction for partial adaptation of their surrogate materials for use in portions of this manual. The Center is also funded by the Minnesota State Board of Vocational Technical Education. For the administrators' manual, see EC 180 999.
AVAILABLE FROM	Minnesota Curriculum Services Center, 3554 White Bear Ave., White Bear Lake, MN 55110 ($16.00 post paid, Catalog No. B623).
PUB TYPE	Legal/Legislative/Regulatory Materials (090) -- Guides - Non-Classroom Use (055)
EDRS PRICE	MF01 Plus Postage. PC Not Available from EDRS.
DESCRIPTORS	*Disabilities; Elementary Secondary Education; Federal Legislation; Individualized Education Programs; *Parent Education; Program Development; State Legislation; State Standards
IDENTIFIERS	*Minnesota; *Surrogate Parents

ABSTRACT

The manual is intended for training surrogate parents of handicapped children according to Minnesota and federal statutes and regulations. Section 1 provides an overview of the surrogate parent program, noting relevant legislation, functions, rights, and responsibilities. Section 2 reviews the history of special education and related state and federal legislation. Section 3, on special education procedures and services, examines referral, assessment, and individualized education program meetings. The fourth section focuses on resolving differences through communication and describes Minnesota's complaint procedures. Section 5 presents a case study to illustrate the role of a surrogate parent. The final section provides appended materials, including Minnesota State Board of Education rules and other regulations and a bibliography. Sample forms are included throughout. (CL)

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A Training Manual for Surrogate Parents

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Credit to the Indiana Surrogate Parent Program and Department of Public Instruction for partial adaptation of their surrogate materials for use in portions of this manual.

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USE OF THIS MANUAL/NOTEBOOK

Throughout this manual, you will find sample forms to help you with record keeping of your surrogate parent activities and with keeping track of information about the student you represent.

Extra space has been provided in this notebook so that you have room to keep the information you collect right along with the training materials provided. An extra flap for storage is also provided on the inside of the back cover.

Your representation of your child will be made easier if you follow a system that allows you to keep in one spot the various paperwork you collect and have it available for quick reference.

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INTRODUCTION – AN OVERVIEW

Public education has sometimes been as revolutionary an idea as the dumping of tea from British ships into the Boston harbor.

Along with the Tea Party and America's independence came the new idea:

All children, not just those from the wealthy classes (as was the practice in the European countries from where the settlers came) would be educated. Their government, not their parents alone, would be responsible for the costs of their schooling.

Their education was not seen as a luxury. Instead, the nation's founders understood that if democracy and government by the people were to survive, the people would need to be informed citizens. This meant, they decided, free public education for all.

Unfortunately, however, for two centuries handicapped children were not among the students for whom education was an American birthright. With rare exceptions, school doors were closed to them. And when opened, the doors seldom admitted them to programs that allowed for their handicaps.

It took another revolution in the 1970's before handicapped children finally gained the right of education. Their parents led the way in convincing government leaders and the public that the potential of all children - not only of those without disabilities - must be developed through education. To continue to deny handicapped children educational opportunities would ignore the benefits that can be returned to society in the form of educated and self sufficient citizens.

Laws passed by Congress and state legislatures in the 1970's finally granted to all handicapped children the right to a free, appropriate, public education. The importance of their parents' involvement was recognized in the laws. Congress granted to the students' mothers and fathers the right to help plan their children's educational programs, to help make important educational decisions, to monitor each child's ongoing progress, and to seek changes when they disagreed with each child's school or felt it was not following the laws.

In summary, Congress viewed parents as important partners with their children's schools.

The fact that the parents of many handicapped children may be unknown or unavailable was also recognized in the laws. Such children were granted the right to have surrogate parents officially appointed to represent their interests in educational matters.

The following pages quote from those sections of federal and state regulations that establish procedures for the appointment of surrogate parents.

PUBLIC LAW 94-142

THE EDUCATION FOR ALL HANDICAPPED CHILDREN ACT

300a.514

(a) General. Each public agency shall insure that rights of the child are protected when: (1) No parent can be identified; (2) The public agency, after reasonable efforts, cannot discover the whereaabouts of a parent; or (3) The child is a ward of the State under the laws of that state.

(b) Duty of public agency. The duty of a public agency under paragraph (a) of this section includes the assignment of an individual to act as a surrogate for the parents. This must include a method (1) for determining whether a child needs a surrogate parent, and (2) for assigning a surrogate parent to the child.

(c) Criteria for the selection of surrogate parents. (1) The public agency may select a surrogate parent in any way permitted under State law; (2) Public agencies shall insure that a person selected as a surrogate: (i) Has no interest that conflicts with the interests of the child he or she represents; and (ii) Has knowledge and skills that insure adequate representation of the child.

(d) Non-employee requirement: Compensation. (1) A person assigned as a surrogate must not be an employee of a public agency which is involved in the education or care of the child; (2) A person who otherwise qualifies to be a surrogate parent under paragraph (b) and (c) (1) of this section is not an employee of the agency solely because he or she is paid by the agency to serve as a surrogate parent.

(e) Responsibilities. The surrogate may represent the child in all matters relating to: (1) The identification, evaluation, and educational placement of the child, and (2) The provision of a free appropriate public education to the child.

Code of Federal Regulations, title 34, section 300

-A FEDERAL STATUTE-

MINNESOTA RULES CONCERNING SURROGATE PARENTS

3525.2430 DEFINITION

A surrogate parent is a person appointed by the providing district to ensure, by intervening on behalf of a pupil, that the rights of the pupil to a free and appropriate education are protected. The surrogate parent shall not be a person who receives public funds to care for the child. However, a foster parent may serve as a surrogate parent if appointed and if no conflict of interests exists.

3525.2435 EFFORT TO LOCATE PARENT

Reasonable efforts shall be made to locate the parent. These may be made through documented phone calls, letters, certified letters with return receipts, and visits to the parent's last known address.

3525.2440 SURROGATE PARENT APPOINTMENT

The district shall appoint the surrogate parent when:

A. the parent, guardian, or conservator is unknown or unavailable; or

B. parental rights have been terminated; or

C. the pupil is a ward of the State; or

D. the parent requests in writing the appointment of a surrogate parent; the request may be revoked in writing at any time.

3525.2445 CONSULTATION WITH COUNTY WELFARE

The district shall consult the county welfare office before appointing the surrogate parent when a pupil is the ward of the commissioner of public welfare.

3525.2450 REMOVAL OF SURROGATE PARENT

A surrogate parent may be removed by majority vote of the school board. The surrogate parent must be notified of the time and place of the meeting at which a vote is to be taken and of the reasons for the proposed removal. The surrogate parent shall be given the opportunity to be heard. Removal may be for any of the following reasons:

A. failure to perform the duties required in the team meeting and IEP process and those cited in the Code of Federal Regulations, title 34, section 300, a federal regulation to implement Part B of the Education of the Handicapped Act;

B. conflict of interest as referenced in Code of Federal Regulations, title 34, section 300.514 (c) (2);

C. actions that threaten the well-being of the assigned pupil;

D. failure to appear to represent the pupil; or

E. change in eligibility for special education.

3525.2455 SURROGATE PARENT KNOWLEDGE AND SKILLS

The district shall either make the information and training available to the surrogate parent or appoint a surrogate parent who has all of the following knowledge and skills:

A. state and federal requirements;

B. district structure and procedures;

C. nature of the pupil's disability and needs; and

D. an ability to effectively advocate an appropriate educational program for the pupil.

THE STRUCTURE OF MINNESOTA'S SURROGATE PARENT PROGRAM

Federal law, Public Law (P.L.) 94-142, gives each state flexibility in establishing its own surrogate parent procedures -- so long as each one has methods in place that will determine which handicapped children need surrogate parents and will see that a surrogate parent is assigned to each of the eligible children.

In Minnesota, the local school districts known as the "providing" districts have the primary responsibility for ensuring that surrogate parents are appointed.

In cases where a county human services department or a corrections agency has placed a child away from his/her district of residence (i.e., where the child's parents reside), then the responsibility for appointing a surrogate parent, when needed, would rest with the local school district in the area where the student has been placed. For example, suppose a child whose family lives within the Jackson school district is living at the state hospital in Willmar. The Willmar school district is responsible for her/his educational services and also for appointing a surrogate parent should s/he be eligible.

Local school districts are the "providing" district in Minnesota - with the exceptions of (1) the Minnesota School for the Deaf, (2) the Minnesota Braille and Sight Saving School, (3) the Minnesota Learning Center at the state hospital in Brainerd, and the correctional facilities at Red Wing, Sauk Center, Shakopee, and St. Cloud. State government departments operate those schools and are also responsible for appointment of surrogate parents for their eligible students.

The local school districts must prepare plans showing that they are complying with state and federal surrogate requirements and submit them for approval to the Minnesota Department of Education. The Education Department, in turn, offers guidance to the local districts in helping them implement their programs.

The manual you are now reading was made available by the State Department of Education. Under Minnesota law, in addition to identifying children in need of surrogate parents and appointing those persons, the school districts must make training available for potential surrogates. This manual was prepared as part of the training through a contract with PACER Center, a statewide coalition for parents of all handicapped children.

WHICH CHILDREN NEED SURROGATE PARENTS?

Under public law 94-142 (federal law) and Minnesota's State Board of Education rules, the following groups of handicapped students are eligible to have surrogate parents appointed to represent them:

1. students who are wards of the State,
2. students whose parents' rights have been terminated,
3. students whose parents are unknown or unavailable, and
4. students whose parents have requested in writing that a surrogate parent be appointed for the child.

Children in such categories might live in foster homes, public or private group homes, state hospitals, correctional facilities, residential treatment centers, or with other family members such as an aunt or a grandparent.

It should be kept in mind that P.L.94-142 defines a parent as a "parent, guardian, a person acting as a parent of a child, or a surrogate parent who has been appointed in accordance with 300a.514." Therefore, if the child has a guardian (or conservator under Minnesota law) acting on his/her behalf, appointment of a surrogate would not be needed.

Also, if someone - such as an aunt or grandparent - is "acting" as his/her parent, a surrogate would not have to be

appointed. However, since in this case no formal court appointment has been made of the person in the "acting" capacity, the state Department of Education recommends that the school ask the "acting" parent to receive a formal surrogate parent appointment and take the training involved.

A handicapped student aged 18-21 is still eligible for special education services and, therefore, for appointment of a surrogate parent if needed. But under Minnesota law a student in that age bracket, unless a ward of the State, may act as his/her own parent. A surrogate appointment would not be made for a student acting as his/her own parent -- unless s/he should request in writing that a surrogate parent be named. A student aged 18-21 who is a ward of the State would be eligible for a surrogate parent just as is any other handicapped student.

WHO CAN BE A SURROGATE PARENT?

To meet the state and federal regulation requirements, a surrogate parent must be one:

1. who has no interest that would conflict with the interests of the child being represented,

2. who is not an employee of a public agency involved in the care or education of the child (such as a county welfare worker, a teacher or other school administrator, or a group home director),

3. who has the skills and knowledge to adequately represent the child, and,

4. under Minnesota law, who either already has knowledge of:
   (a) state and federal special education requirements,
   (b) the school district's structure and procedures,
   (c) the nature of the pupil's disability and needs....
   or will take a training program to acquire the knowledge and skills just listed.

Minnesota law also allows foster parents to represent a child in their care as surrogate parents - if the child needs a surrogate because of any of the reasons given in the previous section. If foster parents are to serve in the surrogate capacity, they must be officially appointed and receive training, if needed.

Though not a legal requirement, it's recommended that, when possible, the surrogate parent come from a background similar enough to that of the child being represented to allow for understanding of the youngster's unique needs and personality. This should be taken into account when appointing a surrogate for a child of a minority race or culture.

A list of the qualities of an ideal surrogate parent would also include:

1. a commitment to learning about the child's educational needs and the special education system in which s/he's enrolled and

2. an ability to communicate with school personnel and to express well and constructively the special needs of the child and the educational services necessary, in the surrogate's view, to meet those needs.

A child might be assigned a surrogate parent from one of three categories:

a. Foster parents may be appointed to serve as surrogate parents for the

child(ren) in their care so long as they meet all the regulatory requirements.

b. Volunteers who've been recruited from their local community might serve both children whose foster parents may be unwilling or unqualified to serve as surrogate parents and also children not in foster homes. The latter group might be found living in a group home, state hospital, or correctional facility.

c. Some children who are wards of the State could still have natural parents who might wish to serve as their surrogate parents and participate in educational decisions. Natural parents falling into this category could be eligible to serve as surrogates. However, they would need to receive a formal appointment by the school district and to participate in a training program if needed to ensure they possess the skills and knowledge specified by Minnesota regulations.

WHAT DOES A SURROGATE PARENT DO?

Being a surrogate parent involves many rights and responsibilities as far as the child's special education needs and services are concerned. However, unless you are also the child's foster parent, you only have responsibility for representing the child when decisions about his/her educational program are being made. You are not responsible for the child's care and financial support.

A surrogate parent represents a handicapped child in all aspects of the educational decision-making process involving that child, including...

- the youngster's identification as a student possibly in need of special education services,
- the evaluation or assessment that will be done of the student to determine his/her individual needs,
- the individualized education program that must be designed for each student,
- ongoing reviews of the child's educational progress, and
- pursuing "due process" procedures if the surrogate believes the school's plans are wrong or out of compliance with the law. (These procedures are explained in Section Four of this manual.)

SURROGATE PARENT RIGHTS

Your rights as a surrogate parent in the educational process are the same as those established by law for natural parents. By giving specific rights to parents of handicapped students, the law has designed an extra assurance that the child's rights will be protected.

The rights of handicapped students include:

1) the right to a free appropriate public education in accordance with an individualized education program (I.E.P.),

2) the right to receive an appropriate, nondiscriminatory educational assessment administered in the child's primary language, and

3) the right to be educated in the least restrictive environment appropriate for his/her needs.

You - as a surrogate parent - have certain rights known as "due process" rights that help assure the child will be treated fairly under the law. Due process rights are spelled out by law.

They include your right to:

1) inspect and have a copy of all records with regard to your child's educational program,

2) request changes if inaccurate or inappropriate information is contained in your child's records,

3) be informed about assessment procedures, tests, and all results,

4) seek an independent assessment (evaluation) of your child if you think the school's evaluation methods and/or results were inappropriate;

5) participate fully in the planning of your child's individualized education program,

6) receive information about the special education services available to your child,

7) question the appropriateness of your child's educational program,

8) decide if a proposed special education placement and program is appropriate for your child and indicate your decision by signing or refusing to sign the individualized education program plan,

9) talk with people involved in your child's education and receive regular progress reports and other communications routinely given to parents,

10) be informed about any proposed changes and have a chance to consent or refuse before any major change is made in your child's educational program,

11) request a parent/school conference, new evaluation, or planning meeting when necessary,

12) have an outside person attend any school meeting with you and ask your child to attend if appropriate,

13) participate as a <u>partner</u> with the school in planning your child's individualized educational program,

14) be notified <u>in writing</u> when -

a) the school proposes to assess (evaluate) your child,
b) a change in placement is being discussed,
c) a change in your child's educational plan is being considered, or
d) an educational planning meeting is being called,

15) receive information from the school upon your request about free or low cost legal services in your area should you feel the need for legal guidance in the performance of your surrogate duties,

16) initiate due process proceedings yourself if needed, and

17) be informed if the school is beginning due process proceedings.

"Due process" proceedings are official steps that may be taken when the school and parent (or surrogate parent) disagree about a child's program. The proceedings involve hearings at various levels and will be outlined and explained in a later section.

Remember, these are the same rights that all parents have in the special education process. If you ever hear the term "parents' rights", this also refers to "surrogate parents' rights." Throughout all the procedures, the real goal is children's rights.

SURROGATE PARENT RESPONSIBILITIES

Federal regulations and State Board of Education rules require that a surrogate parent must be one who adequately represents the child being served and who effectively advocates an appropriate educational program for the pupil.

As guidelines to meet those objectives, it's suggested that surrogate parents do the following:

1) learn about the child's educational needs by

a) observing him/her at school,
b) talking with him/her,
c) reviewing his/her records (you can ask the school for a copy),
d) looking at your child's school work, and
e) talking with his/her teachers, therapists, caseworker, counselors, and other professionals involved with his/her education or care;

2) participate in school meetings to plan your child's individualized education program (this is actually required of you by Minnesota regulations) and share information about the child that you have gathered; (Discretion must always be used in sharing information, and you must comply with laws concerning confidentiality.)

4) monitor your child's educational development during the school year and participate in a review of the program at least once a year;

5) serve as your child's advocate by requesting appropriate services or stating your dissatisfaction with services or the lack of services if necessary;

6) negotiate with the school if there is any disagreement about your child's special needs or education program;

7) represent your child in any complaint or due process procedures;

8) facilitate interaction between the school and other agencies that work with your child (such as the county department of public welfare or a state hospital).

CONFIDENTIALITY

As a surrogate parent, you will have access to the child's school records. Much of the information in the records may be of a confidential nature. Also, in discussing the child with teachers and county social workers and others, you are likely to receive confidential information. It is your responsiblity to use the information with care and discretion and to respect the privacy of the child and his/her family just as you would want others to respect your own privacy. Only information that relates to the child's educational program and performance should be offered by you during school meetings about the child.

YOUR ROLE AS A SURROGATE PARENT

A surrogate parent is usually assigned to an eligible child through a letter from the local school district serving the child. The surrogate appointment might be for a year at a time, or it could be "open ended" with perhaps an annual review.

After you have participated in a training program and have decided to accept the responsibility of becoming a surrogate parent, you are ready to begin the process. What do you do first?

How to start: For foster parents

If you are serving as a surrogate parent for your handicapped foster child, you are already in a position to know a great deal about him/her. You are aware of his/her likes and dislikes, abilities and needs, and unique ways of learning. You probably have already met your child's teachers and therapists, and you may have already attended a parent/school conference or meeting.

Once you have been formally designated as your child's surrogate parent by the school, this is a good time to make sure you have done everything you need to do regarding your child's educational program, and that the school has observed all of your rights as a surrogate parent.

Gathering information

1) Talk with your child's caseworker about the youngster's educational history. Read and make copies of his/her school records if you haven't already done so.

2) Make arrangements to visit your child's class to observe him/her and talk with his/her teacher.

3) Reintroduce yourself as a surrogate parent to teachers, therapists, supervisors, and other professionals involved with your child. Make sure that these people know what your role as a surrogate involves and that you expect them to communicate with you as they would with any child's parent.

4) Begin to fill out a "student profile sheet" on your child (see end of this section.)

5) Keep a log and file of all written and verbal contacts that you have with the school (see "surrogate parent contact log" at the end of this section.) Use the pocket file in the back of this manual to store all of the written materials that you collect as well as the record of your contacts.

6) Ask questions about anything you don't understand.

Participating as a team member

As a surrogate parent, you will be serving as a member of your child's educational planning team, just as natural parents have the right to do.

1) Know your rights as a surrogate parent and be prepared to participate actively.

2) Review the evaluation procedures involved in the last assessment done on your child and request a copy of the results. Make sure that the assessment is current and complete. Ask for an explanation of the results if anything is unclear.

3) Review your child's last individualized education program and prepare to participate in developing his/her next one. Investigate other school programs if appropriate.

4) Attend all parent/school meetings and conferences to plan and/or review your child's educational program. Make specific requests for services if necessary. Set up a regular means for communicating with the school. If appropriate, invite your child's caseworker to attend these meetings with you. If he/she doesn't attend, communicate the results of the meetings to him/her.

5) Gather all necessary information before making a decision regarding your child's placement in a special education program.

6) Approve or disapprove the final plan. (You will have provided input in the development of this plan. However, if you disagree with the version that is finally proposed by the school, you still have the right to withhold your agreement to its implementation.)

Working for change

If you feel that your child's educational plan is not appropriate or is not being followed, you may need to work for change through one or more of the following procedures:

1) Talk with your child's teachers, therapists, or principal, and try to resolve problems at this level first.

2) Request that another educational planning meeting be held to discuss specific issues and concerns. Look into other school programs and services if necessary.

3) Write a letter to request a meeting with the director of special education for your child's school district.

4) If you cannot resolve the disagreement through the above methods, you may need to initiate due process procedures.

5) If you believe the school is actually out of compliance with laws governing special education, you may file a "complaint" with the State Commissioner of Education. Minnesota's complaint system is explained in Section Four of this manual.

Use the checklists included in this manual to help you keep track of your activities and know what to do next. The "Checklist for Surrogate Parent Activities" at the end of this section is a good place to start. (Note: you may better understand the terms used in the "checklist" after you read Section Three, "Special Education Programs and Services.")

How to start: For volunteers

As a volunteer surrogate parent, you will probably be assigned to a child that you don't know. You will need to spend some time right away learning about your child and his/her educational history. This will also allow the child, the teachers, and others involved in the educational process to get to know you.

Gathering information

1) Read and make a copy of your child's records. Look at his/her past as well as present school placements and services.

2) Observe your child in his/her school program and place of residence.

3) Learn more about your child's handicapping condition (see Section Six, "Appendix").

4) Introduce yourself as a surrogate parent and talk with everyone: teachers, therapists, social workers, caseworkers from the Department of Human Services, supervisors, doctors, and attendants. Talk with them about your child's special abilities and needs.

5) Meet the child. If the child is younger or mentally retarded, present yourself as a friend rather than as a surrogate parent (a role that may be confusing to the child). Begin to develop a profile of the child from your point of view (see "Student Profile Sheet" at the end of this section).

6) Keep a log and file of all written and verbal contacts that you have with the school and the place where your child lives (see "Surrogate Parent Contact Log" at the end of this section.) Use the pocket file in the back of this manual to store all of the written material that you collect as well as the record of your contacts.

7) Ask questions! Because you do not know the child as well as many of the other people involved in his/her education, you will need to ask questions of everyone. You don't need to apologize for not knowing a great deal about your child at first. You're learning, and you have an important part to play in your child's life.

Participating as a team member

As a surrogate parent, you will be serving as a member of your child's educational planning team, just as any natural parent has the right to do.

1) Know your rights as a surrogate parent and be prepared to participate actively.

2) Review the evaluation procedures involved in the last assessment done on your child and request a copy of the results. Make sure that the assessment is current and complete. Ask for an explanation of the results if anything is unclear.

3) Review your child's last individualized education program plan and prepare to participate in developing his/her next one. Investigate other schools' programs if appropriate.

4) Attend all parent/school meetings and conferences to plan and/or review your child's eduational program. Make specific requests for services if necessary. Set up a regular means for communicating with the school.

5) Gather all necessary information before agreeing or disagreeing to your child's placement in a special education program. (You will have helped provide input into the child's individualized education plan. However, if you disagree

with the version that is finally proposed by the school, you retain the right to withhold your permission for it to go into effect.)

6) Facilitate communication and cooperation between the school and your child's place of residence to provide for some consistency in programming between them.

7) Communicate with your child's caseworker and/or social worker about the results of your meetings with the school (if they have not attended).

Working for change

If you feel that your child's educational plan is not appropriate or is not being followed, you may need to work for change through one or more of the following procedures:

1) Talk with your child's teachers, principal, or other professionals who work directly with your child and try to resolve any problems at this level first.

2) Request that another educational planning meeting be held to discuss specific issues and concerns. Look into other school programs and services if necessary.

3) Write a letter to request a meeting with the director of special education for your child's school district.

4) If you cannot resolve the disagreement through the above methods, you can initiate due process proceedings.

5) If you believe the school is actually out of compliance with laws that govern special education, you may file a "complaint" with the State Commissioner of Education. Minnesota's complaint system will be explained in Section Four of this manual.

Use the checklists in this manual to help you keep track of your activities and know what to do next. The "Checklist for Surrogate Parent Activities" found at the end of this section is a good place to start. (Note: You may better understand the terms used in the "checklist" after you read Section Three, "Special Education Programs and Services").

SUMMARY

- All children have the right to a free appropriate public education no matter how mild or severe their handicapping condition.

- Parents have the right to be involved with the school in planning special education programs for their handicapped children.

- Children who do not have parents available must be assigned a surrogate parent.

- A surrogate parent is a foster parent or volunteer (or possibly a natural parent when the child is a ward of the State and parental rights have not been terminated) who represents the child in educational decisions.

- A surrogate parent has the same rights and responsibilities that parents and guardians have in the special education decision-making process.

QUESTIONS AND ANSWERS

Q. Why can't staff members of the school or a care facility in which a child may live be responsible for representing him or her on educational matters?

A. In the past, educational decisions about handicapped students without their own parents were often made by the school together with the agency legally responsible for the care of the child. There were two main problems with this:

(1) both the school and agency could have budget restrictions that would conflict with meeting an individual child's needs, and

(2) neither the school or agency may have time to learn all that is necessary to know about one child.

A surrogate parent would not have either of these problems.

Q. What is the difference between a surrogate parent and a foster parent?

A. Neither federal regulations nor the State Board of Eduation rules recognize foster parents when they define parents. So in order to legally make decisions about the child's special education, a foster parent must be officially appointed as a surrogate parent (if the child in his/her care is eligible for surrogate representation).

Q. Will I get paid for being a surrogate parent?

A. There is no requirement in Minnesota that surrogate parents receive compensation. However, schools may choose to cover the expenses of surrogates or offer another type of compensation. This is a question that each school district will decide individually.

Q. Do I have a choice about the kind of child to whom I'm assigned?

A. Yes. You may request assignment to a child with a certain disability or of a certain age group, for instance. Perhaps you may already have an understanding of a certain disability,

have been involved with a school and its programs, or have background information that would be of benefit when serving as a surrogate parent for a particular category of child. Indicate such special knowledge and your interest in being assigned to a certain kind of child on the "surrogate parent registration form" you complete.

However, keep in mind that there may be other children who need your services as well.

Q. Could I be assigned to a student over the age of 18?

A. In Minnesota, students aged 18-21 are viewed as serving as their own parents. Therefore, unless they are wards of the State or have requested that a surrogate parent be appointed to represent them, they would not have surrogates.

Q. Who has the final say about my child's educational program? What is the role of the child's case worker, a hospital superintendent, etc.?

A. As a surrogate parent, you are the person who's been officially appointed to work with the school in planning and monitoring your child's school program. Also, your consent is necessary before the school can go ahead with certain steps in a child's program. Although caseworkers, social workers, staff members from care facilities, and others will (and should) continue to be involved with your child's special education program, it's your signature that counts as far as assessment and program or placement decisions are concerned.

Q. What should/shouldn't I sign?

A. As a surrogate parent, you will be asked to sign all forms relating to your child's special education. This will include assessment and program placement forms. You should not give your consent to any proposal you feel is inappropriate and would not meet the child's need. Additionally, you should not sign for anything for which you might be held liable such as permission for driver's education, school fees, field trips, etc. This type of permission form would need to be signed by the child's caseworker, residential care provider, or other person responsible for his/her c[illegible].

Q. How often can I visit my child's classroom?

A. As often as is necessary. You may need to visit your child's classroom several times in order to get to know him/her and start to develop a profile of his/her needs and abilities. You will also need to visit during the year in order to monitor how the program is working. You should feel free to visit at other times as well. Make sure that you go through the necessary steps to set up each visit by contacting the teacher or principal. (Check to see what the procedure is in your child's school.) If you would like to talk with any of the school's staff who work with your child, other than the teacher, make separate appointments to see them as well.

Q. Is it all right to get more involved with my child than just participating in his/her school program?

A. Some volunteer surrogate parents <u>choose</u> to become more involved - by visiting the child at home or taking him/her on outings, for instance. This

is a decision that needs to be made jointly by you and the personnel at the child's home who may or may not feel that the additional involvement would be of help to the child. Remember though that you can be a very effective surrogate parent even if you choose not to become involved outside of the area of education. As a surrogate parent, your only obligation to the child is in the area of special education.

Q. Can I be held liable if I make a wrong decision about my child?

A. Currently in Minnesota there is no legislation that specifically protects either natural - or surrogate - parents from being held liable.

Q. How much do I need to know about my child's handicapping condition? How can I learn more about it?

A. You can be a very effective surrogate parent without knowing a great deal about your child's handicapping condition - provided that you know a great deal about your child. However, it may be helpful to you to learn about some of the special needs that children with certain handicapping conditions often have. Ask your child's teacher for written materials, or contact any of the appropriate state and national organizations listed in Section Six of this manual. Your public library may also be useful.

Q. Will the school be evaluating my activities as a surrogate parent?

A. Schools do have the responsibility for monitoring the activities of each surrogate parent to make sure he/she is carrying out the duties required by the State Board of Education rules. They may do this in written form or by talking with teachers and others who have been in contact with you. The State Department of Education has suggested to schools that they conduct annual reviews of how surrogate parents fulfill their responsibilities to see if there would be grounds for termination of any surrogate's appointment.

Q. What if I have a question after I'm assigned as a surrogate parent. Whom do I ask?

A. Start by asking your child's teacher, principal, or other school person who works with your child. They can probably answer most of your questions. You might also contact a parent of another child in your child's class or PACER Center, a statewide parent training and information center. Also, other surrogate parents can be a good source of support. Use Section Six of this manual to learn of groups you might wish to contact and to gain more information about resources.

Q. What if the school won't assign me as a surrogate parent even after I've been trained?

A. The school may have a variety of reasons for not assigning you even after you've been trained. There may not currently be any children in the school district who need surrogate parents. Or there may be more volunteers than are needed. Make sure that the school knows that you are still interested even if you're not assigned right away. If you feel that the school has a specific reason for not assigning you in particular, contact the person in charge of surrogate appointments or the State Office of Monitoring and Compliance (phone 612-297-2843 or 612-297-3056) to discuss your concerns with them.

Q. What if the school terminates my surrogate parent appointment?

A. There are several reasons that the school might have to discontinue your assignment:

(1) the child changes schools because of a change in living arrangements or residential needs;

(2) the child reaches the age of 18 and no longer needs a surrogate since s/he is able to represent him/herself;

(3) the child's status as a special education student changes and s/he is no longer in need of a surrogate; or

(4) the school feels you have not fulfilled the requirements for surrogate parent responsibilities.

To further explain number three above: the school could not by itself suddenly decide that the student no longer needed special education services and, thus, terminate the surrogate parents representing that student. An end to special education services would be the kind of change in a child's educational program that parents - in this case, surrogate parents - would have to know about and approve.

You should be informed of the reason why your surrogate appointment was terminated, and you have a right to be heard at a meeting of the district's school board to appeal the termination if you wish. If you feel that your assignment was unfairly discontinued, you may also file a complaint with the Office of Monitoring and Compliance (Section Four of this manual describes Minnesota's complaint procedure.)

Q. If my child doesn't need a surrogate parent any more, how do I get reassigned to another child?

A. Write to or call the person in charge of surrogate parent appointments within your school district or special education cooperative to let him/her know that you would like to be assigned to another child.

Q. What if I don't want to be a surrogate parent any more?

A. You should contact the person in charge of surrogate parent appointments within your school district or special education cooperative and let him/her know your feelings. You will be asked to return all copies of records that you have obtained. Also, let him/her know if you might be interested in serving as a surrogate parent again at a later time.

Q. As a volunteer surrogate parent, what is my role at my child's place of residence?

A. As a surrogate parent, you can help make educational decisions about your child. You do not have the authority to make decisions about other types of services such as those that your child receives at his/her residence. It is important, though, to talk with all persons involved with your child, especially in his/her home environment, in order to get a full picture of the child's needs. Make sure that the social workers and others at the residence understand your role as a surrogate parent, and try to gain their cooperation in securing an appropriate educational program for your child.

STUDENT PROFILE SHEET

Child's Name_____ Birthdate_____

School_____ Phone_____

Teacher_____ Grade Level_____

1. What my child is interested in:_____

2. Things my child is ready to learn:_____

3. My child is best at:_____

4. My child needs the most help with:_____

5. Help my child has received in the past:_____

6. Problems with my child's current program:_____

_____

_____

_____

7. Possible alternatives and/or additions to my child's current program:____

_____

_____

_____

8. Services that my child needs:_____

_____

_____

_____

9. Special concerns I have about my child:_____

_____

_____

_____

10. Questions I want to ask about my child:_____

_____

_____

_____

11. Suggestions I have about working with my child:_____

_____

_____

_____

CHECKLIST FOR SURROGATE PARENT ACTIVITIES

	YES	NO	N/A*	FOLLOW UP NEEDED
I. Gathering Information				
I have visited my child at school.				
I have visited my child at his/her home.				
I have read all records on my child that are pertinent to his/her education.				
I have talked with my child's teachers and other people involved in her/her education and care.				
I have begun to develop a "Student Profile Sheet" on my child.				
I have begun to keep a "Surrogate Parent Contact Log"				
II. Participating As A Team Member				
a) The Identification and Assessment Process I have reviewed the section on Assessment in this manual.				
I have received a written notice requesting that an assessment be made of my child. (A complete assessment must be done before initial placement and at least every three years thereafter.)				
I have read the notice carefully, and I understand its statements and terms.				

*N/A = not applicable

	YES	NO	N/A	FOLLOW UP NEEDED
I understand the tests and procedures that will be used with my child.				
I have monitored the assessment process to insure that it is thorough and nondiscriminatory.				
I have provided any information I have about my child to the assessment team.				
I have received a letter detailing the assessment procedures used with my child and explaining the results of the testing.				
I have requested and attended a conference to discuss the results of the assessment and to ask questions about appropriate placement choices for my child.				
I have filled out the "Assessment Checklist" contained in this manual in Section Three.				
I agree that the identification and assessment process has complied with the regulations for nondiscriminatory assessments.				
If not, I have discussed my concern with the school, and I have requested, in writing, another assessment by them or by an independent assessment agency.				
b) <u>The Placement Process</u>				
I have been invited to a meeting to develop my child's school program.				

	YES	NO	N/A	FOLLOW UP NEEDED
I have carefully reviewed all sections of the manual dealing with Individualized Education Programs (IEP's) and the Student Staffing (or IEP meeting).				
I have completed a "Student Profile Sheet" on my child.				
I have attended the student staffing and participated in the development of my child's Individualized Education Plan (IEP).				
I have requested a meeting to review the IEP.				
I have requested a copy of the IEP.				
I have filed out the "Checklist for Evaluating the IEP" contained in this manual.				
I have signed the IEP, thereby agreeing that this is an appropriate program for my child.				
If not, I have refused to sign the IEP and requested another meeting to discuss my concerns and develop a satisfactory IEP.				
I have observed my child on the dates recorded here to determine if the IEP is working for him/her.				
I have spoken with my child's teacher(s) and other service providers to find out about his/her progress.				

	YES	NO	N/A	FOLLOW UP NEEDED
I have attended an annual review to discuss my child's current IEP and the changes necessary, if any, for next year.				
III. Working For Change				
I have discussed my concerns with my child's teacher(s) and was satisfied with the results.				
If not, I have written a letter to the school principal and Special Education Director explaining my concerns.				
I have received a response from them which satisfies me.				
If not, I have requested either a conciliation conference with the school or a due process hearing...or have filed a complaint.				
I have carefully reviewed the section in this manual dealing with conciliation conferences, due process hearings, and the complaint process.				
I have requested and been given information about available legal resources.				
I have contacted an outside resource such as legal services or an organization for parents of handicapped children to counsel me about this process.				
I have written out my specific concerns and have prepared myself for a conference or hearing.				
I am satisfied with the results of the conference, hearing, or complaint investigation.				

	YES	NO	N/A	FOLLOW UP NEEDED
If not, I have appealed the decision, following procedures explained in Section Four of this manual.				

On the following page is a form that you can use to keep track of your actions as a surrogate parent.

You will want to make several copies of this form in advance.

Surrogate Parent's Name

SURROGATE PARENT CONTACT LOG

Student's Name

DATE	ACTION (CALL, VISIT, LETTER, ETC.) AND NAME AND TITLE OF PERSON CONTACTED	SUMMARY OF RESULTS	FOLLOW-UP NEEDED?

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THE HISTORY OF SPECIAL EDUCATION

Almost two centuries of American history saw only a scattering of programs and schools designed for handicapped students. Education was not a right for these youngsters but a question of luck or where they happened to live or what their individual handicap happened to be.

The denial of education had three serious consequences:

1. Many handicapped children had no opportunity to develop their individual potential and self worth.

2. Rather than having a chance to lead self sufficient lives as adults, they were limited to lives of dependency.

3. In a nation with a democratic form of government based on its citizens being knowledgeable and informed, the denial of education to this group of citizens meant they could not participate meaningfully in their own government as adults.

The idea of education as a right of all citizens was first supported by a 1954 Supreme Court case, Brown vs. Board of Education. The Brown case dealt with the tragedy of education denied to black citizens. But the court's decision established important foundations for handicapped students, also. The Supreme Court's ruling emphasized "the importance of education to our democratic society" and the relationship of education to "the performance of our most basic public responsibilities."

"Where the state has undertaken to provide it (education)," the Court said, education "is a right which must be made available to all on equal terms."

Additional court cases, PARC. v. Commonwealth and Mills. v. D.C. Board of Education, focused on handicapped children and ruled that all children can benefit from education. These cases cited the Fourteenth Amendment to our constitution which says that no citizen can be denied the equal protection of the laws. The "equal protection" guarantees of the Amendment mean, the courts ruled, that education could not be denied to handicapped students.

These cases paved the way for Congress, in 1975, to pass the Education for All Handicapped Children Act, often known as Public Law (P.L.) 94-142. Under this Act, states that accept federal money for special education programs must offer all handicapped children a free and appropriate public education.

Certain procedures - described in following sections - must be in place within each school district to be sure that the guarantee of a free, appropriate public education is met. Finally, to ensure that the procedures are followed, children and their parents were granted certain rights, known as "due process" rights.

"Due process", throughout American history has meant that citizens who are treated unfairly or unjustly have a way to protest that treatment. Unless handicapped children and their parents had the right to be informed about what was happening in their child's educational life and to object and be heard - if and when the new laws were not followed - little real progress would have been made.

Section 504 of the Rehabilitation Act of 1973 also addressed the educational needs of handicapped children. Section 504 established the right of all handicapped citizens to have access to the benefits of programs that receive federal funds. It reinforced the rights of handicapped students to the same free public education granted to nonhandicapped children.

The legal reforms brought about by court cases, P.L. 94-142, and Section 504 took two directions: (1) they guaranteed to handicapped children educational rights that were <u>equal</u> to those of all children, and (2) they provided extra protections to ensure that handicapped students would not only have access to education but that the education would meet their individual and special needs.

THE STRUCTURE OF SPECIAL EDUCATION IN MINNESOTA

In Minnesota, special education programs for handicapped children and youth are provided primarily by local school districts (public schools). To provide special education services, the local districts - especially in rural areas - often combine to form special education cooperatives.

Single districts

Here, the school district provides services to all children within its boundaries, including the entire range of programs and services for handicapped students. Single district organization for special education program delivery is most common and workable in high population areas.

Special education cooperatives

Two or more school districts may join together to provide special education services to all handicapped children within their combined boundaries. A single administrative office may be created with teaching personnel hired by that office. Member districts are usually adjoining or within the same county or region.

However the special education programs of a school district are organized, one person is usually responsible for coordinating all of the elementary and secondary special education services. He or she is usually known as the "special education director" or by a very similar title. The special education director may also be the person in charge of the surrogate parent program within the school district or the special education cooperative.

Working with the director may be supervisors for various programs, coordinators, psychologists, teachers, and specialists such as speech therapists or clinicians. The size of the district or cooperative will certainly contribute to the size and complexity of its staff structure.

Schools run by state government departments

Three state government departments are in charge of providing educational services for students at certain state schools. The Department of Education is the educational provider for students at the Minnesota School for the Deaf and the Minnesota Braille and Sight Saving School, both located in Faribault. The Commissioner of Corrections is responsible for the education of students in the state's juvenile correctional facilities at Red Wing, Sauk Center, Shakopee, and St. Cloud. Finally, the Department of Human Services provides educational services for pupils in the Minnesota Learning Center at the state hospital in Brainerd.

Educational services for students in residence at other state hospitals and in most residential treatment centers or group homes are the

responsibility of the local school district in the town or city where the hospital or residence is located.

STUDENTS OUTSIDE THEIR DISTRICT OF RESIDENCE

Some handicapped youngsters may be attending educational programs outside their districts of residence (i.e., where the parents or guardian lives) because school districts - instead of furnishing special education services themselves - are allowed to contract with another district, special education cooperative, or other public or private facility to furnish the required programs.

(It should be kept in mind, however, that State Board of Education rules prohibit school districts from purchasing services for a child from another public or private agency when the service can be made available and be more appropriately provided within the child's district of residence.)

Other children living away from their district of residence might have been placed temporarily in the other setting as a result of a court action or an agency or parental decision. For instance, a child with emotional problems might have been placed in a "residential treatment center" through a county social services department decision that he or she needed to reside away from home and receive treatment.

Children who are living outside their district of residence may be among those most likely to need surrogate parents since they may be wards of the State or because geographical distance could prevent their own parents from taking part in educational planning and decision making.

The organization of local school districts and special education cooperatives and the arrangement(s) through which the child you represent is receiving special education services can vary greatly. As a surrogate parent, you will want to spend some time exploring how "things are run" and whom to see for what.

LAWS AFFECTING HANDICAPPED CHILDREN

PUBLIC LAW 94-142:

THE EDUCATION FOR ALL HANDICAPPED CHILDREN ACT

Public Law (P.L.) 94-142 is a federal law that guarantees all handicapped children the right to a free, appropriate public education.

P.L. 94-142 defines "handicapped" students as those who are: mentally retarded, hard of hearing, deaf, speech impaired, visualy handicapped or blind, seriously emotionally disturbed, orthopedically impaired, other health impaired, deaf-blind, multi-handicapped, or learning disabled.

The law contains several very important principles:

I. "Zero reject". Under P.L. 94-142, no handicapped student - no matter how severe his or her handicapping condition - may be refused a free and appropriate public education. This principle did away with the idea that some students were more deserving of education than others and eliminated futile and impossible-to-answer arguments about which students should, and which should not, go to school. Instead, the law established the concept that the potential of each human being deserves the chance to be developed.

II. "Appropriate education". In guaranteeing the right to a free and appropriate education, Congress ensured that school doors would not just open. Rather, the programs inside the schoolhouse would also be designed to fit each student's needs, to accommodate his/her handicapping condition, -- and therefore, to actually make the education meaningful.

In order to accomplish appropriateness of services, P.L. 94-142 requires that children who are identified as needing special education services then receive a nondiscriminatory assessment (evaluation). The assessment must guard against incorrectly labeling a child as handicapped due to cultural or racial reasons. It must measure a broad range of the child's abilities. For instance, a child could not be placed in a special education program as a result of an I.Q. test alone since that test by itself may be too narrow a measure of his/her abilities and needs.

A second means of ensuring that a child's education is appropriate is P.L. 94-142's requirement that an "individualized education program" (IEP) be developed and carried out for each student.

The IEP is a plan developed by a group of persons (including parents, teachers, and other school personel) that establishes: the child's needs, his/her current educational performance levels; educational goals and objectives to meet those needs; the regular, special, and related educational services s/he is to receive; who will deliver the services; and the length of time during which s/he will receive them.

III. "Least restrictive alternative". Prior to P.L. 94-142's passage, handicapped children - if receiving educational services at all - typically received them in isolation, either in separate and special schools or classrooms stuck

away from the flow of the nonhandicapped student body. Since the passage of P.L. 94-142, handicapped students may be educated in "segregated" settings only when such a setting has been established as the most beneficial in meeting the student's needs.

P.L. 94-142 requires that handicapped children receive their educational programs in the "least restrictive" setting appropriate. This does not mean that all handicapped children will be automatically "mainstreamed". Some handicapped students may be served best in classrooms devoted to children with similar disabilities. The "least restrictive" concept does mean that, when appropriate, a handicapped child will be with nonhandicapped classmates. For one child, this may mean spending most of the schoolday in a special education classroom but going to lunch and recess, for instance, with the general school population. For another child, the least restrictive alternative may mean spending most of his/her class periods with nonhandicapped children but receiving one or two periods of instruction in a resource room or special education classroom.

To ensure the "least restrictive" alternative for all handicapped students, P.L. 94-142 requires school districts to provide a "continuum" of services. The continuum includes various types of placement, ranging from short periods of time spent in resource rooms or special education class to full time placement in a special education classroom or school.

IV. "Due process procedures" and "parental participation". In order to make sure that all handicapped children are assessed correctly, appropriately placed in special education programs if needed, and receive services according to their unique needs - as specified by their IEP's - P.L. 94-142 established several "due process rights" or procedures.

Because children cannot exercise legal rights, the due process protections were actually given to their parents on behalf of their sons and daughters. They include:

1. the right to have access to their children's school records,
2. the right to have independent assessments made of their children when they question the school's assessment,
3. the right to receive prior notice when schools plan actions that will affect the child's educational program,
4. the right to participate in planning the child's individualized educational program (IEP),
5. the right to consent or disagree with the school's proposal(s),
6. the right to have a hearing in cases of disagreement, and
7. the right to monitor the child's ongoing education and to request changes.

Further, to ensure that each child would have a personal representative to advocate on his/her behalf, P.L. 94-142 required that a surrogate parent be appointed when the child is a ward of the State or when his/her natural parents are unknown or cannot be located.

PUBLIC LAW 93-380:

THE FAMILY RIGHTS AND PRIVACY ACT

The Family Educational Rights and Privacy Act (FERPA), sometimes known as the Buckley Amendment, gives parents the right to examine their child's school records. Although surrogate parents are not mentioned specifically in the Act, the regulations for the Act do list persons acting as a child's parents (which would include officially appointed surrogates) among those who have access.

This right is an important one. It allows surrogate parents to gain the background information and understanding they need about their child's assessment process and educational progress in order to make informed decisions about his/her future education needs.

FERPA's provisions include:

1. Parents (including surrogate parents) have the right to review and receive a copy of their child's educational records;
2. Parents have the right to have the records explained by school officials;
3. Parents who believe that information contained in the education records is inaccurate, misleading, or a violation of any rights of the student may request that the records be changed.

The educational records to which parents have access do not always include those that were created by a physician, psychiatrist, psychologist, or "other recognized professional" acting in his/her professional capacity. However, a parent can ask that the records in this category be personally reviewed by a professional of the parent's choice. Further, if this type of record is kept in the child's general school file and school staff members can see it, then parents can also.

Parents also would not have access to the personal records that might be kept by an individual teacher or other staff member in his or her own personal files -- so long as those records are seen by no one other than the school employees who recorded them or a person serving as his/her substitute.

Each school district must establish procedures that parents can follow when they wish to inspect their youngster's records and must provide parents with copies of records upon request. Reasonable fees can be charged for producing copies; the fees cannot be so high that they'd effectively prevent parents or others from reviewing the records.

When parents or surrogate parents believe that information in the child's educational records to which they do have access is wrong, they may ask the school district to change it. If the school refuses, the parent may ask that a hearing be held. The FERPA hearing:

1. must be held within a "reasonable" amount of time following the request and
2. can be conducted by anyone who does not have a direct interest in its outcome (this can include an

official of the school district , according to regulations, so long as s/he doesn't have a "direct interest.")

A decision made as a result of the hearing must be given to the parent in writing. If the hearing finds that the school district does not need to change the information to which the parent has objected, the parent can then submit a written statement about the material he or she believes is wrong. The statement must be kept as part of the child's educational record so long as the material is kept on file by the school.

FERPA also sets very careful limits on the groups or individuals to whom a school can release information from children's records without the parents' written consent. Those to whom information can be released without permission include primarily agencies with a direct interest in the school's or child's education program. (For a specific list, see the Appendix.) A record must be kept by the school of those parties to whom information has been released, and parents can also ask to inspect this record.

In order to give out information to anyone not listed in the regulations for FERPA, the school must seek and receive permission from the child's parents or surrogate parents.

A district can have a policy whereby educational records are periodically destroyed. However, no record which a parent has asked to review or which is involved in a hearing can be destroyed.

Parents who feel that the school district has violated any of the FERPA provisions may submit a complaint in writing to the Family Educational Rights and Privacy Act (FERPA) Office, Department of Education, 400 Maryland Avenue, S.W., Washington, D.C. 20202. The Office will investigate complaints and then send a notice of its findings to both the person who filed the complaint and the district involved. If it has found that the district was in violation, it will spell out the specific steps that must be taken to remedy the problem.

SECTION 504 OF THE REHABILITATION ACT OF 1973

Section 504 has been called the "first federal civil rights law protecting the rights of the handicapped." It states that "no...qualified handicapped individual...shall, solely by reason of this handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance."

(Section 504 of the Rehabilitation Act of 1973, 29 USC, 706)

Section 504 applies to all recipients of federal funds, including:

-- states, counties, cities, towns, villages,
-- public and private schools,
-- public and private institutions,
-- public and private colleges,
-- public and private hospitals and clinics,
-- public and private agencies,
-- other health service providers, and
-- other organizations receiving federal funds.

Section 504 and Education

The education provisions of Section 504 are closely coordinated with the requirements of Public Law 94-142. No handicapped child can be excluded from a public education because of a disability. The education must be free and designed to meet the individual education needs of a child. Handicapped students must also have equal opportunity to participate in:

-- non-academic services
-- health services
-- extracurricular activities
-- transportation
-- recreational programs
-- referrals to service providers
-- athletics
-- referral for employment purposes
-- counseling services

All post-secondary education programs and activities are also covered by Section 504. Recruiting, admissions, and treatment of students must be free from discrimination. Handicapped students must have the same options as others in selecting courses. Admissions and other tests must not discriminate against handicapped people.

Colleges and universities must also make reasonable changes in academic requirements where necessary to insure full educational opportunity for handicapped students. Such changes might include extension of time for completing degree requirements, adaptation of the way in which specific courses are conducted, and elimination of rules prohibiting handicapped persons from having tape recorders in class or dog guides on campus. Students with impaired manual, sensory, or speaking skills must be given aides such as taped texts, interpreters, library readers, or other special equipment.

Section 504 and Program Accessibility

Section 504 states that programs - when viewed as a whole - must be

accessible to handicapped persons. It does not require that every building or part of a building must be accessible.

Recipients of federal funds, such as school districts, may comply with Section 504 requirements by:

--redesigning equipment used in programs so it can be used by handicapped students,
--reassigning classes or other services to accessible buildings,
--altering buildings that already existed in 1977 when Section 504 took effect or constructing facilities built after that time so that they are accessible to handicapped students.

A school district is not required to make structural changes in buildings that already existed in 1977 if it can insure that handicapped students have access to school programs by other methods (such as holding a class in a building that is accessible). However, in choosing how to comply with Section 504, recipients are to give priority to those methods that offer "programs and activities in the most integrated setting appropriate."

Further, facilities constructed by federal fund recipients after May 4, 1977, are required to be "readily accessible to and usable by handicapped persons."

MINNESOTA'S STATE BOARD OF EDUCATION RULES

Minnesota's State Board of Education rules provide specific details on how school districts should conduct their special education programs so that the rights guaranteed handicapped students by P.L.94-142 and state statutes are ensured.

Important sections of the State Board of Education rules include:

Preschool education

Under P.L. 94-142 and state law, Minnesota must provide a free, appropriate public education for handicapped children aged 4-21. They may, but are not required to, provide educational programs, known as preschool education, for children younger than four. However, they are required to conduct preschool programs for handicapped children younger than four if they provide preschool programs for nonhandicapped children of that age.

The state rules provide specific details for those districts that do conduct preschool programs on how such programs are to be organized and staffed.

Levels of service

In order to assure that handicapped students receive their educational services in the "least restrictive" environment, Minnesota rules provide for a "Continuum of Placement" model. Under this model, students can receive varying degrees or amounts of special education instruction. The idea is to provide enough special services to meet the unique needs of each student -- while not segregating him or her away from regular education students unless s/he actually needs full time special education placement.

Special education students in Level 2 would spend their entire school day in regular education classes. However, special education staff members would act as consultants to their regular education teachers so that any special needs a child has because of a handicapping condition would be addressed.

Students in Level 3 would be in regular education classrooms for most of their school day but would also receive some direct special education instruction.

Level 4 students would spend over half their school day in a special education setting, but would be with regular education students for at least part of the day.

Students in a Level 5 program would receive full-time direct special education instruction. Level 6 students would also receive full-time direct special education instruction, but they would also be placed in a residential facility.

When helping to plan the IEP for their child, surrogate parents will want to remember that, whenever appropriate, the student should be in the least restrictive environment. That is, he or she should have experiences in participating with nonhandicapped students.

Student–teacher class size ratios

The State Board of Education rules establish the sizes of classes for special education students. The ratios of students to staff members vary according to the nature of a child's handicap and to the level of service s/he receives.

For instance, no more than four autistic children can be served by a teacher and one aide in a Level 5 program. On the other hand, up to 15 learning disabled students can be served by one teacher and one aide in a Level 4 program.

Discipline and handicapped students

The state rules allow handicapped pupils, like all students, to be suspended from school if their behavior seriously disrupts the rights of others to an education or endangers the pupil, other pupils, or school property.

However, the rules specify that within five days of a handicapped student's suspension or before s/he may be expelled or excluded (not allowed to enroll or re-enroll) in school, a team meeting must be held. At the meeting, it would be determined whether or not the behavior in question is related to the student's handicapping condition. If it is, s/he may not be expelled or excluded. However, the student might be placed in a more restrictive program. The team must also review the pupil's assessment, IEP, and placement.

Other topics

A copy of the rules is included in the back of this manual. It can be consulted for information on:

1. the professional qualifications that must be met by the various special education staff members involved in your child's school program;
2. the procedures school districts must follow to receive permission from the Minnesota Department of Education if they wish to differ in any way from how the state rules say special education programs are to be conducted; (A school district would not be allowed to make changes that conflicted with the provisions of P.L. 94-142 or state statues. No district could receive permission to deny to any handicapped child the basic guarantees of a free, appropriate public education or to violate his/her parents' due process rights.)
3. the kinds of educational services that a school district must provide for handicapped students who are homebound, hospitalized, or in another type of treatment facility;
4. the surrogate parent program that a district must have in place for children without their own parents to represent them; (see Section Three for details.)
5. details and timelines involved in "due process", the procedures that parents may follow when they disagree with a school district's proposal or actions; (See Section Four for more details.)
6. the types of administrators and supervisors that school districts must employ for their special education programs; and
7. the "complaint" procedures that can be used by parents and others who believe the school district is actually in violation of the law. (See Section Four for details.)

Other important provisions of Minnesota's State Board of Education rules will be discussed in other portions of this manual in connection with the educational procedures to which they apply.

VOCATIONAL EDUCATION

Another important area of your handicapped student's secondary educational program - his or her possible need for vocational education - is also covered by law.

The federal government - in Public Law 94-482 - requires that states set aside ten percent of the federal vocational education money they receive for programs for handicapped students. Vocational education is defined as an educational program that provides training in daily living skills, occupational skills for paid or unpaid employment, and/or career preparation for students in post-secondary programs.

The state of Minnesota, which spends over $100 million a year on vocational education at the secondary and post-secondary levels, lists three reasons for this type of education:

(1) to provide training so students will be ready to enter a given job market right after high school graduation;
(2) to offer the chance to explore a career before deciding to prepare for it; or
(3) to teach competencies that will help students in their post-secondary training.

However, unlike special education instruction and related services, vocational education is not something that MUST be provided for your handicapped children under all circumstances. Here's why:

Though the federal government requires the ten percent set-aside of funds for handicapped students and though the state of Minnesota appropriates close to $3 million for vocational education programs for handicapped secondary students, Minnesota schools are not NOW legally required to offer vocational programs at all (though most do so).

If they do offer vocational education for any students, however, then they must, of course, make the courses available and accessible to handicapped students. Districts will receive reimbursement for a large share of the costs of the vocational programs from the state, and they can use their portion of the $3 million to make the programs work for the handicapped students enrolled in them.

If your school is one that does not have vocational programs for its regular education students and, therefore, does not HAVE to provide such programming for special education students, but you believe your student's future is being harmed by lack of programming, you may still wish to seek this kind of service for him/her - keeping in mind that funding help is available to the district. Unfortunately, your argument for provision of the service will not be as strong as if you were asking for a service that P.L. 94-142 says MUST be provided for handicapped children.

Minnesota districts have several options through which they can provide vocational services:

1. Many metropolitan districts belong to three "intermediate" districts. Through the larger district, which has independent authority to levy taxes to support its services, the member schools can provide vocational education (as well as various other kinds of programming) for their students. These intermediate districts must be individually approved and authorized by the state legislature. Their authority to levy taxes, in effect, gives their member districts an additional source of funds with which to educate their youngsters. The advantage this gives to member

districts over schools where the intermediates haven't been formed is now under study by the Department of Education.

2. Other school districts have formed "joint powers" cooperatives. Though the cooperatives can't levy extra taxes, they can provide vocational education services more efficiently that smaller districts could if working by themselves.

3. Other schools have entered an arrangement called a "host district" cooperative. One district would administer the vocational education program, and other districts would buy services from the host district.

4. Finally, many districts enter informal relationships; for instance, two districts might decide to share the services of a vocational teacher.

In seeking vocational education services for your child, you may want to suggest to the school that it explore the possibility of one of the above arrangements.

What might you as a surrogate parent expect your child's chances to be to receive adequate vocational education opportunities? In 1982-83, 83 percent of the state's 185,000 students in grades 10-12 had access to five or more choices of vocational programs; 86 percent had access to four or more choices.

At the other end of the scale, only .8 percent had no vocational choices at all available to them; these represented 1,527 students in 16 of the state's smallest school districts. Three percent of the students in grades 10-12 had only one choice available; ten percent had two or fewer choices; and thirteen percent had three or fewer choices.

The picture throughout the state may become more uniform in the future since the State Board of Education is considering making the provision of vocational education mandatory by all Minnesota districts. The Office of Secondary Vocational Education expects the new mandatory plan to be in place by the beginning of the 1985-86 school year.

IS VOCATIONAL EDUCATION RIGHT FOR YOUR STUDENT?

Though as a surrogate parent you will want to consider carefully your child's possible need for vocational education, you will not want to automatically assume that s/he should take vocational preparation instead of planning to attend a college or university.

To get a broad view of what your student's future career possibilities might be and what will be required as preparation, make appointments to talk with both the school counselor and a counselor from your local Vocational Rehabilitation office. (See the list of state offices and agencies in the appendix for the address and phone number of the state Department of Vocational Rehabilitation; that office can be contacted to learn whom you should talk with in your area.)

Both counselors can help you understand what the impact of your child's handicapping condition may be on his/her future career choices.

Further, you may wish to explore the different ways in which handicapped students have been able to succeed in college programs in your area. Because Section 504 has required that handicapped individuals have access to the benefits of programs receiving federal funds, many persons for whom college was overlooked as a possibility in the past are now having successful academic careers. In other words,

don't shut off any options for the future while you're planning your student's program in secondary school.

If you and school personnel do determine that vocational education is a need for your student, s/he might become involved in one of seven types of programs available in Minnesota:

1. business, office occupations,
2. consumer and homemaking skills,
3. marketing occupations,
4. agriculture, forestry occupations,
5. health occupations,
6. service occupations,
7. trade, industry occupations.

Should you have questions about vocational education, you may contact the Office of Secondary Vocational Education, Minnesota Department of Education, Room 519A, Capitol Square Building, 550 Cedar St., St. Paul, MN. 55101, (612) 296-3306.

COMMONLY USED TERMS

From time to time, all of us have found ourselves not recognizing a term, acronym, or expression used so easily by others. The following list should familiarize you with the most common ones and provide you with a useful reference.

Adaptive Behavior - The degree to which an individual meets the standards of personal and social responsibility of his/her age and culture group. Three aspects of this behavior are maturation, learning, and social adjustment.

Advocacy - Actions of an individual or a group on behalf or in support of either themselves or other persons. For example, a surrogate parent would be an advocate for the child s/he represents; that is, the surrrogate would work to ensure that the child receives appropriate educational services.

Annual Review - The law requires that a handicapped child's educational program be reviewed each year. A review involves looking at the child's progress under the current plan and making any changes necessary in his/her educational program for the following year.

Annual Goals - These describe the various results of the child's educational program that are hoped for by the end of each school year.

Assessment - A measure of the person's strengths and weaknesses to see how s/he can make use of his/her abilities and to determine what special needs must be addressed in planning the child's educational program.

Audiologist - A specialist who studies the fields of normal hearing and hearing losses. An audiologist is concerned with studying the nature of hearing, preventing hearing loss, administering hearing tests to detect possible hearing loss, and giving information about hearing aids, training programs, or medical treatment.

Behavior Modification - A technique of changing human behavior, based on a structural, consistent system of positive and negative reinforcement. Emphasis is on observable behaviors and what events precede and follow them.

Case Worker - A person from a public human service agency (such as probation or a county department of human services) involved with helping a person and/or family in dealing with specific social, emotional and/or financial problems and adjustments.

Cerebral Palsy - A group of conditions caused by brain damage, usually occurring before or during birth or during the developmental years. Marked especially by defective muscle control, language, speech, or learning problems. There are many types of cerebral palsy, and it shows up differently in each person.

Cognition - The act or process of knowing; the various thinking skills and processes are considered cognitive skills.

Consent - Refers to being fully informed and agreeing to a proposed plan of educational assessment and/or placement in a special education program. Parental consent in special education has three basic parts: 1) the parent is fully informed; 2) the parent agrees in writing; and 3) the consent is given voluntarily.

Coordination - The ability to use more than one set of muscle movements to a specific end.

Developmental Disabilities - A developmental disability is a severe and chronic disability of a person which:

(a) is attributed to a mental or physical impairment or a combination of a mental and physical impairment

(b) is manifested before the person attains age 22

(c) is likely to continue indefinitely

(d) results in substantial functional (i.e., what the person can do) limitations in three or more of the following areas of major life activity:

(1) self-care
(2) receptive and expressive language
(3) learning
(4) mobility
(5) self-direction
(6) capacity for independent living
(7) economic self sufficiency, and

(e) reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of life-long or extended duration and are individually planned and coordinated.

Two groups in each state must work together to plan and evaluate the variety of services needed by people with developmental disabilities. In Minnesota, the two groups are the State Developmental Disabilities Council and the Developmental Disabilities Planning Office. Their addresses and phone numbers may be found in Section Six of this manual.

Developmental Lag/Delay - A child falls behind his/her chronological age in developing skills. Can refer to cognitive, social, physical, or emotional development. Often can be successfully dealt with through early intervention.

Diagnostic Services - Including, but not limited to, medical, psychological, social, and educational services necessary to identify the presence of and to determine the extent to which the handicap limits (or is likely to limit) the individual's daily living, educational, and work activities.

Down's Syndrome - A condition caused by chromosomal abnormality with a number of physical characteristics and varying degrees of mental retardation. (Down's Syndrom, in the past, was sometimes known as Mongolism.)

Due Process - Various provisions established by law that ensure a person's legal rights can be protected and that the intent of laws such as P.L.94-142 can be carried out as intended. Due process is explained in Section Four of this manual.

Educational Goal - The level of educational achievement accepted as reasonable and desirable for a specific child at a specific time.

Expressive Language Skills - Skills required to produce language for communication with other individuals. Speaking and writing are expressive language skills. Sign language is also considered an expressive language skill.

Eye-Hand or Fine Motor Coordination - Important aspect of small muscle development involving the integration of the child's vision and use of his/her hands.

Gross Motor Activity - Activities in which groups of large muscles are used and the factors of rhythm and balance are primary.

Hyperactivity - Constant and excessive movement and motor activity.

Identification - The process of finding students who are in need of special education services. It can include a school census, school screening, or referral from parents,

teachers and/or agencies. Public information activities may be necessary to raise public awareness of the need to connect handicapped children with programs that provide special services.

Least Restrictive Environment - A term used to describe procedures to insure that, to the maximum extent appropriate, handicapped children are educated on an equal basis with children who are not handicapped. Special classes, separate schooling, or other removal of handicapped children from the regular education environment may occur only when the nature or severity of the handicap is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. This principle also applies to children in public or private institutions or other care facilities.

Mainstream - One small portion of the concept of least restrictive environment which allows a child to participate in as normal an educational environment as possible. Being "in the mainstream" means being with nonhandicapped children.

Motor Development - The way a child uses the muscles to move the body in performing everyday tasks including sitting up, crawling, rolling over, etc.

Normalization - A philosophy of providing services to handicapped people which promote a life as much as possible like that of the rest of the community. This involves living in the community, access to community resources, and a daily routine of work, education, recreation, etc.

Occupational Therapy - A service involved with the rehabilitation of a disabled individual. Occupational therapy is concerned with "fine" muscle movements, such as the use of hands and fingers, and helps a person learn or re-learn how to perform daily activities such as eating and work tasks that involve hand/eye coordination.

Parent Involvement - A concept which means that parents have the right to participate in decisions involving the identification, assessment, and placement of their handicapped child and the right to participate on an ongoing basis in their child's program.

Perception - The process of organizing information obtained through the senses.

Physical Therapy - A service that can be part of the rehabilitation of a disabled person. Physical therapy would be concerned with "large" muscle movement; i.e., a physical therapist might help a patient learn how to walk, sit, or make other movement involving the body's major muscle systems.

Placement - Refers to the program chosen as the most appropriate educational setting for a child. Placement decisions would be made after the child has been assessed and after the IEP team has held a student staffing and developed an individualized educational program for the child based on his/her unique needs as determined by the assessment process.

Procedural Safeguards - Precautions taken to insure that an individual's rights are not denied without due process of law.

Psychologist - A person trained in dealing with the study of mental processes and human behavior (not to be confused with a psychiatrist who is also a medical doctor.)

Psychometrist - A professional who specializes in administering and evaluating psychological tests including intelligence, aptitude, and interest tests.

Receptive Language - Ability to understand the language used by others.

Referral - The process of directing a person to another individual or agency who can provide the service needed.

Regulations - Statements that clarify laws (which are passed by Congress or state legislatures). Regulations are written and issued by departments within the executive branch of government; for instance, the regulations for P.L.94-142, which was enacted by the U.S. Congress, were written by the U.S. Department of Education. In Minnesota, the regulations to implement our state statutes (laws) about special education are known as "rules" and were issued by the Minnesota Board of Education. Regulations or rules (as they're known in Minnesota) have the force of law. They're sometimes easier to read and understand than are the original laws or statutes. Accordingly, this manual has included copies of regulations and rules instead of the relevant laws themselves.

Rehabilitation - The process of helping a disabled person learn or re-learn the skills needed for daily living and work activities. Rehabilitation might include counseling to help a person make an emotional adjustment, job training, helping a person obtain financial assistance during an adjustment period, and vocational assessments, among other types of activities.

Resource Room - An area within a school where individual children would spend part of the day for supplemental help in their academic performance.

Sensory-Motor - Refers to evaluations and activities which involve the integration of sensory perception (what one sees and hears for instance) with motor (movement) performance.

Social Worker - A person from a service agency (such as a school, group home, hospital, or the county's human services department) who helps an individual and his/her family in dealing with special problems and adjustments, i.e., social, emotional, financial, etc.

Speech/Language Therapy - The process for remediation of such speech disorders as stuttering, lisping, or poor articulation and of working to improve a child's ability to use language, both receptive (i.e, understanding ideas expressed by others) and expressive (the ability to express thoughts him/herself); conducted by a qualified speech therapist or clinician on a one-to-one or small group basis.

Spina Bifida - A birth defect in which there is an abnormality in the formation of muscles and nerves within the spine. Commonly associated with variable degrees of paralysis in the legs, as well as problems with bladder and bowel functions.

State Plan - A plan in which each state details how it will provide services to comply with federal law; a satisfactory plan is a prerequisite to receiving federal funds. The state plan is required by P.L. 94-142.

Surrogate Parent - A person assigned to act in place of parents or guardians when a child's parents or guardians are not known or are unavailable, when the parents or guardians have requested in writing that a surrogate parent be appointed, or when the child is a ward of the State.

Total Communication - A method of communication for deaf or seriously hearing impaired persons that involves both sign language and lip reading and the use of verbal speech by the disabled person.

TTY or Teletype - A telephone communication system used by deaf or severely hearing impaired people, also

known as a TDD (telephone device for the deaf).

Vocational Education - As defined by P.L.94-482, vocational education programs are those related to the preparation of individuals for paid or unpaid employment, or for additional preparation for a career that does not require a four-year academic degree.

Vocational Rehabilitation - See "rehabilitation" above; vocational rehabilitation is geared toward helping a person acquire skills needed for employment.

ABBREVIATIONS

ACLD - Association for Children with Learning Disabilities

ARC - Association for Retarded Citizens

CEC - Council for Exceptional Children

Co-op - Special education cooperative

CP - Cerebral palsy

D-B - Deaf-blind

DD - Developmental disabilities

DHS - Department of Human Services

DVR - Department of Vocational Rehabilitation

E/BD - Emotional/Behavior Disorders

HI - Hearing impaired

IEP - Individualized education program

IQ - Intelligence quotient (score on an intelligence test)

LEA - Local education agency (i.e., a local school district)

LD - Learning disabled

MD - Muscular dystrophy

MI - Mental illness

MR - Mentally retarded or mental retardation

OT - Occupation therapy or occupational therapist

OSERS - Office of Special Education and Rehabilitative Services; part of the U.S. Department of Education

PL - Public Law

PT - Physical therapy or physical therapist

SEA - State education agency (Minnesota Department of Education)

TDD - Telephone Device for the Deaf

TVI - Technical Vocational Institute

TTY - Teletype (another name for a phone with special devices that can be used by deaf or severely hearing impaired persons

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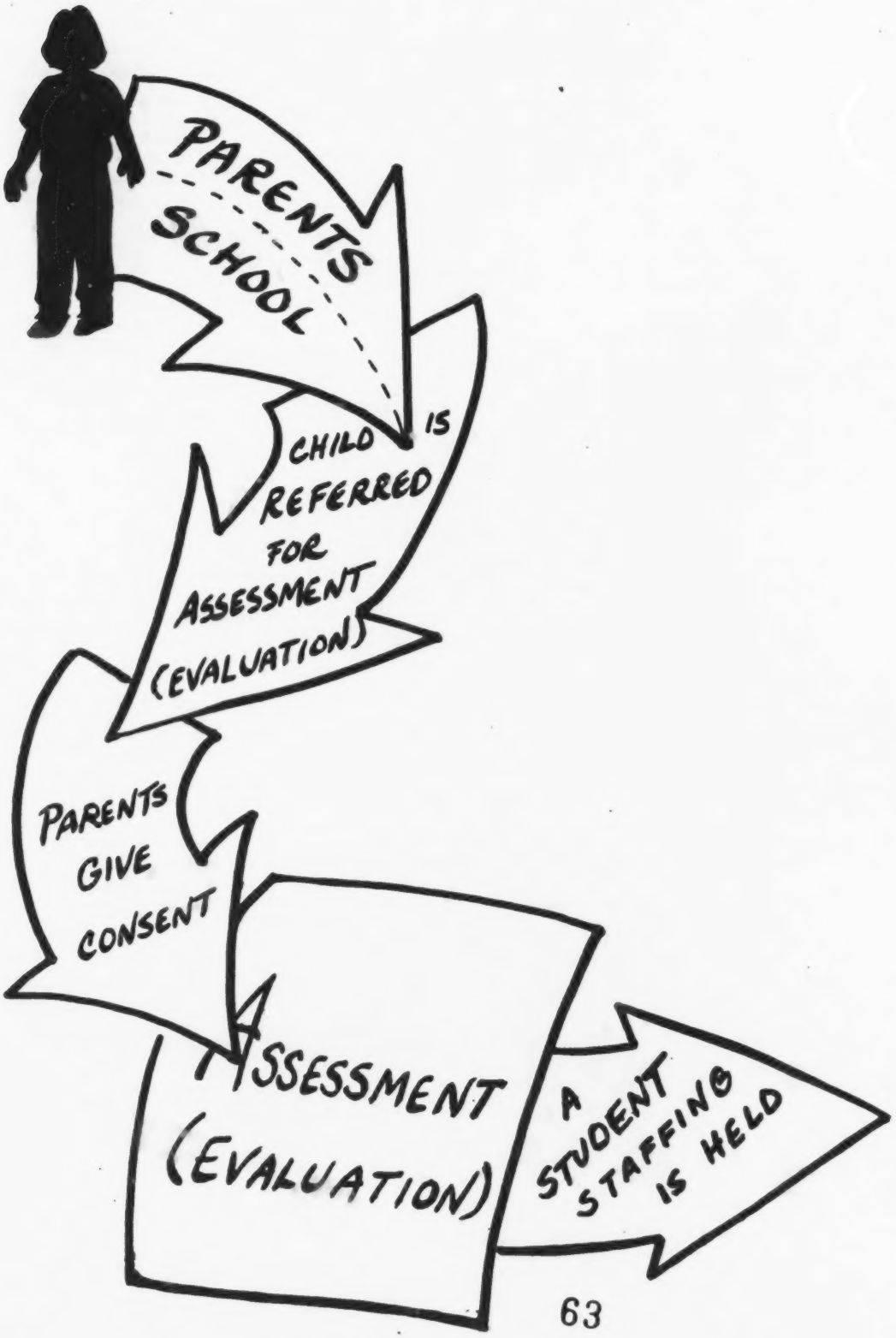
SPECIAL EDUCATION PROCEDURES AND SERVICES

As a surrogate parent studying this manual, you're ready now to become involved in the procedures that school districts follow to assure that all children who need special services receive appropriate special education programs. The purpose of Section Three is to acquaint you with the steps involved in those procedures and to define your role at every step along the way.

It's not expected that you will become a special education expert overnight...or ever. That's not necessary. As a surrogate parent you have a very important part to play in your child's life! It will be your individualized and personal concern for the child that makes your representation most valuable. Of course, the more knowledgeable you become, the more significant the impact you can have on your child's special education program.

For the purposes of this manual, the word "parents" will be understood to include officially-appointed surrogate parents.

THE REFERRAL AND ASSESSMENT PROCESS



Securing appropriate educational services for a handicapped child involves a variety of steps. The first step in this process is called "referral". It's an important part of the process to identify those children who need special education services.

A referral begins the process of gathering information about a child in order to decide if s/he has special needs that will require special education services. Anyone (including parents, teachers, and other school people) who feels a child is having a learning problem that's related to a possible handicapping condition may request a referral for assessment from a school principal or a special education director.

The school must explain the referral and assessment process to the child's parents or surrogate parents, obtain their written permission for this action (the assessment) to take place, and inform them of their due process rights (they will have the right to consent or disagree before actions that follow the assessment may take place). Only then - if this is the child's first assessment - can the process begin.

An assessment is an evaluation. It must take place within 30 calendar days from the date the school district receives parental permission to conduct an initial assessment of a child. It's the process of gathering information about the child. It is ongoing and evolving and may take several weeks to complete. If the child is already enrolled in a school program, s/he must remain in that program until the assessment is completed and a student staffing (conference) is held to plan for his or her educational future.

You may be assigned as a surrogate parent for a child who is already in special education and thus has already been through the initial referral and assessment process.

However, if your child is "new" to special education, you will be assigned at the time of his/her referral so that you can become involved before his or her educational assessment proceeds.

If the results of the assessment indicate that your child is not eligible for special education services at this time, your surrogate parent assignment to that child will be discontinued. (You may request to be assigned to another child.)

Should you disagree with the decision that the child is not eligible for special education services, a decision that was made on the basis of the school's assessment, you may wish to have an independent assessment of the child conducted and the results of that assessment considered in determining eligibility. (The process by which parents may have an independent assessment conducted is explained in detail later in this section.)

If, however, the child's assessment does indicate eligibility for special education services, the next step will be a student staffing where his/her individualized education program (IEP) is planned, a second important involvement for you as a surrogate parent.

Because a full assessment of the child must be done both before s/he begins receiving special education services and at least every three years after that, the following information is applicable to all surrogate parents, regardless of the stage in the process at which they are assigned. Also, parents may request that their child be re-assessed at any time although the school is not required to approve the request.

Educational Assessment

An assessment is a way of gathering and interpreting information about your child in order to find out if s/he needs special education services and, if so, what those services should include.

An assessment should answer a wide variety of questions such as:

-- What can my child do NOW? What are the things that my child cannot do yet?

-- How does my child learn best? By writing things down? Reading? Hearing? Working alone? Working in a group?

-- What <u>should</u> my child be able to do in the future?

-- How does my child get along with others?

-- In what area(s) is my child having problems?

-- What does my child LIKE to do?

Decisions about your child's educational program and future can be made only if adequate information has been gathered about him or her. Your child must be assessed in all of the areas of skills or needs that might affect his/her learning. The areas shown by the following drawing may be part of the assessment:

1. Physical condition and health A medical examination is used, if needed, to detect general health problems and conditions that place physical limitations on the child. Medical examinations are used for assessment purposes only, not for treatment. (Ordinarily, the school district is not responsible for the cost of a full-fledged medical examination. This will be explained more fully in the question/answer pages at the end of this section.)

2. Environment/Family The ways in which a child relates to the people in his/her daily life may be relevant to the assessment since education deals with a child's emotional and social well being as well as with academic advancement.

3. Vision and Hearing The assessment team should look for any problems there might be with your child's eyes and ears.

4. Motor abilities These refer to your child's physical coordination, his/her ability to walk and run, the youngster's general mobility, and his/her ability to handle objects.

5. Self-care skills These are the skills that enable a child to take care of him/herself. They include dressing, eating, and toileting.

6. Prevocational and vocational skills Your child's ability to do things that will be needed to work in the community and/or at a particular job are an especially important part of an older child's assessment.

7. Educational performance This area measures what the child has learned to do so far in specific subject and skill areas; what s/he likes to do; and the child's learning style and strengths and weaknesses.

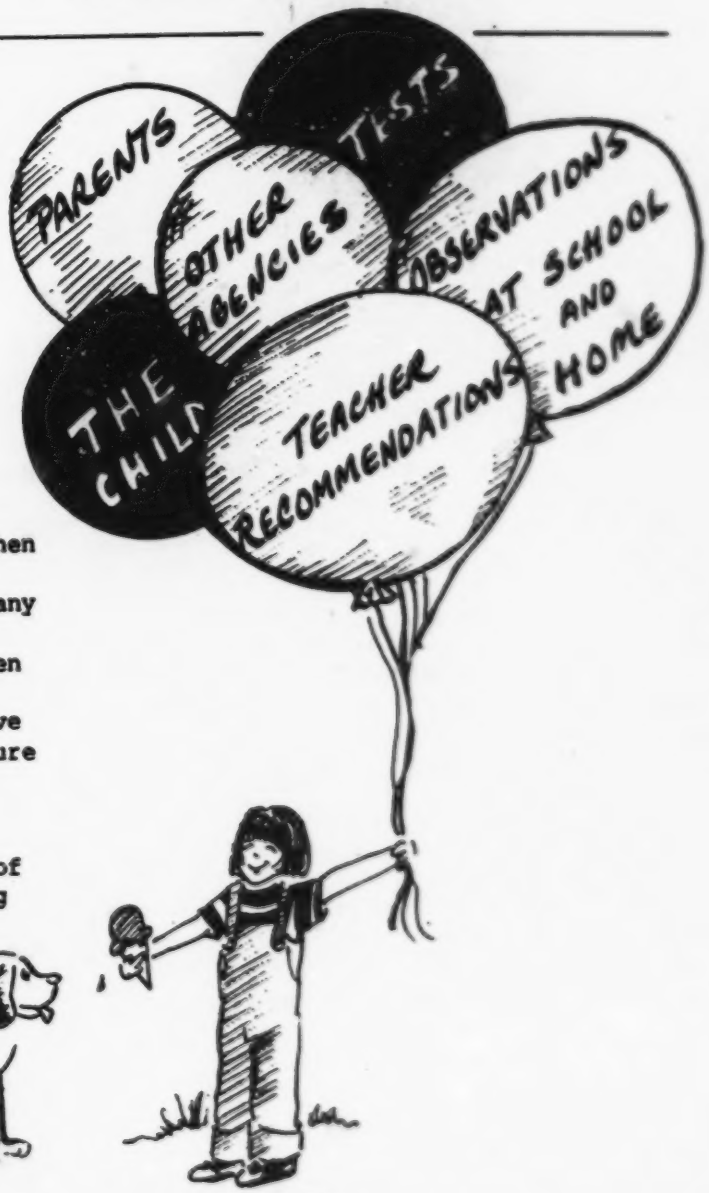
8. Speech and Language These skills concern how the child communicates with other people and interprets what others are communicating to him/her. The category includes both the extent to which the child can use a verbal language to express him/herself and to his or her physical ability in the act of speaking.

9. Cognitive assessment Cognitive refers to the child's intelligence and thinking skills and to the manner in which s/he learns.

10. Adaptive behavior This refers to your child's ability to behave in ways appropriate to changing situations. The assessment team would see if s/he can act independently when required and whether or not s/he can cope with new situations.

11. Social adjustment The assessment would consider how the child is able to get along with the people in his/her "world", how the child plays in the neighborhood, how s/he relates to pets, whether s/he likes to be alone or with other children, or how s/he acts in other surroundings such as stores or restaurants.

Many sources of information must be used



When the school describes its plan for assessing your child and when the results of the assessment are discussed with you, make sure that any of the above areas which present difficulties for your child have been included. Any one of them could affect his/her learning. If you have particular areas of concern, make sure that these are addressed in the evaluation.

The school must use a variety of sources of information when learning about your child.

Samples of your child's behavior under different conditions and at different times and from different sources will be collected during the assessment. This is the only way to get a complete picture of your child that can be useful for planning an appropriate educational program. As you can see, tests are only one source of information gathered during the evaluation process. The law says that no single source or single procedure may be used to make decisions about the child's special education needs.

Because each child is unique, the particular people who make up the assessment team may be different for almost every child. Usually the team is composed of:

1. a psychologist,
2. a teacher or specialist with knowledge in the area of the child's suspected handicapping condition,
3. the child's classroom teacher,
4. the child's parents, guardian, or surrogate parents,
5. other professionals who have had contact with the child such as a private therapist or the child's caseworker or social worker.

Other people who may be on your child's assessment team include a speech clinician, physician, nurse, physical therapist, vocational education teacher, non-school psychologist, occupational therapist, and any other people who may provide input about your child.

If your child lives in a group home, state hospital, or other residential facility, the people who work with him/her there will have important information to contribute to the assessment process. Your child's caseworker also has relevant information to share. If you feel a specific expert has been left out, request that information contributed by that person be included.

If you are also your child's foster parent, you will have a wealth of information about him/her from your daily interactions at home.

But even if you do not live with your child on a day-to-day basis, there are many things that you can learn about him/her by visiting his/her home, observing your child at school, reviewing your child's records, and talking with your child's caseworker. If possible, try to gather information about some or all of the following areas:

1. Your child's ways of learning:
   a. Does your child learn best by watching things?
   b. Does your child learn best by hearing things?
   c. Can your child learn best when s/he is in a group or better when s/he is alone?

2. Mood and energy patterns:
   a. Does your child's energy peak at a certain time of day?
   b. Do your child's moods vary greatly?

3. Special interests and hobbies:
   a. What does your child enjoy doing?
   b. Does your child participate in outdoor activities?

4. Attitudes and relationships towards adults and peers?
   a. What is your child's relationship with his/her foster parents or the adults who care for him/her?
   b. What is your child's attitude towards other adults?
   c. What is your child's attitude towards other children?
   d. How does s/he play with others?
   e. Does your child prefer to play alone?

5. Things your child responds to:
   a. Does your child respond well to verbal praise?
   b. What type of material things (food, toys, etc.) does your child enjoy?

6. Living skills and adaptive behavior:
   a. How does your child manage at home and in the community?
   b. Is s/he able to approach things independently or does s/he continue to look to adults for help?
   c. What kinds of self-help skills does your child have (toileting, grooming, eating, etc.)?

7. Developmental history and support information:
   a. At what age did your child learn to walk?
   b. At what age did your child learn to talk?
   c. At what age did your child develop various skills that allowed him/her to compensate for the limits of his/her handicapping condition? As an example, at what age did a deaf child begin signing? When was a physically handicapped child able to begin using a wheelchair?

8. Medical history and support information:
   a. What type of medication does your child take?
   b. Has your child had any medical problem this part year that may affect his/her school work?
   c. Are there any past medical problems that may affect your child's ability to learn?

Use your "Student Profile Sheet" found at the end of Section One to record this information.

If someone from the assessment team doesn't contact you to discuss your child, call the teacher, principal, or special education

director and ask for the name of the person heading the assessment team. Then call that person and make an appointment for a meeting so that your input can be added to the assessment process.

Keep in mind that in addition to surrogate parents, several different people can be conducting different parts of the assessment. All of you will then report to the entire assessment team, giving your information, impressions, concerns, and recommendations. At the end of the assessment process, the team will meet to talk about all of the information gathered and to cross check results and impressions. If this discussion does not lead to a resolution or agreement, the team may decide that more testing needs to be done and/or additional observations made. Remember, the assessment is an evolving process and you are part of it.

The assessment must describe HOW your child learns

The most important thing that can be learned from an educational assessment is information about how your child learns. This kind of information is the basis for planning your child's individualized education program (IEP).

Make sure that the assessment team looks at more than just what your child cannot do. A thorough evaluation should provide some positive answers that indicate what type of education program may succeed for the youngster. Find answers to questions like the following:

1. How does my child learn best? Through touching an object? By listening to the teacher? By using which senses?
2. In what kind of setting does my child learn best? Alone in a quiet corner? In a small group with other children? While working individually with the teacher?
3. What can my child do best? What does s/he need help with?

A variety of assessment methods should be used

A variety of methods, including observations and testing, must be used for collecting information about your child.

There are many ways that the assessment team can learn about your child. When the school describes its assessment plan to you, look for evidence that they will use the following methods:

1. Direct observation of your child in classroom and other settings;
2. A variety of formal and informal tests that compare your child to other children and to his/her own growth and progress; and
3. Other evaluation procedures that may be needed by your particular child, such as:
   a. vision and/or hearing tests
   b. speech/language tests
   c. motor coordination tests

Tests: One way to learn about your child

One of the important parts of an educational evaluation is testing. Although testing is a valuable way to collect information about your child, it is only one of the ways, and it should never be the only method used to determine your child's eduational program.

Tests are tools used to measure samples of a child's behavior and

abilities. Tests can do three things:

1. Predict (to some extent) a child's ability to succeed;
2. Describe where a child needs to begin learning; and
3. Measure and record progress.

Tests are used to gather information about many aspects of a child's growth and development:

Different types of tests are used to evaluate each of these areas. These include:

1. intelligence tests
2. adaptive behavior measures
3. tests of perceptual development
4. achievement tests
5. aptitude tests and interest inventories
6. developmental scales
7. tests of language and communication

These tests may be given to your child by a psychologist, teacher, speech and language clinician, occupational therapist, or many other types of professionals - depending on the kinds of tests your child needs.

Both P.L. 94-142 and Minnesota laws state that the tests must be nondiscriminatory. Nondiscriminatory means that the tests and procedures must be chosen so as to get the most accurate information possible about the child's ability to learn. These results shouldn't be influenced by the child's race, sex, method of communicating, income level, or disability. The results also should not be influenced by the test or the person conducting the tests. For instance, tests that are not valid (i.e., actually measure what they're supposed to measure) should not be used. Only persons trained in giving and interpreting the test should do so.

Questions: Your tool in learning

If you want to understand more about the way your child will be assessed, ask to have a conference with the leader of the assessment team before the process begins. At the meeting you may want to ask the following questions:

1. What tests are you considering for my child?
2. Why are you considering these particular tests?
3. What information will be gained from these tests and how will it be used to plan for my child's education?
4. Will my child understand the tests?
5. Are the tests fair to my child? Will his/her cultural background or handicap affect his/her ability to take the test? Are the tests being given in the language that my child uses at home?
6. Are the examiners who will be testing my child qualified to give the tests that have been chosen?
7. Could you give me an example of some of the things my child will be asked to do?
8. How can I help prepare my child for the testing session?

After your child has been assessed and you meet with the assessment team, you may want to ask some or all of these questions:

1. What can my child do now?
   a. How well does my child read? What is his/her test score in reading and what does it mean?
   b. How well is my child doing in math? What is his/her test score in math and what does it mean?
   c. Are there any ways my child needs to learn how to take care of him/herself? Does my child need to learn to be more independent?
   d. How does my child get along with other children at school? In class? At lunch or recess? With his/her teachers?
   e. Does my child have some language skills that need to be worked on?
   f. Can my child adapt his/her behavior so that it is appropriate to varying situations? Is s/he able to act independently, or is s/he overly dependent on adults?

2. What can you tell me about my child's physical development?
   a. Do any of the teachers or evaluation team members think that my child has trouble seeing or hearing?
   b. Are there any problems with my child's physical development?
   c. Does my child have any speech problems?

3. How does my child learn?
   a. What is my child's learning style?
   b. Does s/he work better in a group or alone?
   c. Do rewards or praise seem to help interest or motivate my child?
   d. Does my child learn better by listening to something, reading it, seeing it, or writing it down?

4. What are my child's strong points? What are his/her weaknesses?

5. Are there any areas of my child's development that need further assessment?

6. What are my child's educational needs? What type(s) of educational programs will best meet all of the needs that have been discussed?

A summary of guidelines

In summary, make sure that these guidelines have been followed when your child is assessed:

1. A child cannot be placed in a special education program on the basis of one test alone.

2. A child must be assessed by a team of people from many areas of specialty, including his/her surrogate parents and a teacher or other educator who is familiar with the child's potential learning problems.

3. All areas of the child's development that may be related to his/her potential learning problems must be assessed.

4. Tests and other assessment materials must include those that examine specific areas of possible learning problems and not just those providing an IQ score.

5. All testing must take the nature of the child's handicap into consideration so that the picture of a child's ability is truly a fair one. Tests and testing conditions must be adapted if your child needs them to be.

6. Be sure that testing does not discriminate in any way. If a child speaks any language other than English, tests must be given in the language s/he knows best. Children who have grown up in minority cultures should not be judged by answers to questions about a world that is totally strange to them. Children who are deaf must have interpreters. Long tests must be broken up into shorter periods if the child has a hard time sitting still or concentrating.

7. Your child must receive a complete assessment before s/he can begin receiving special education services and at least every three years after that. Check your child's records to find out when his/her last assessment was conducted. If you feel that your child's abilities and needs have changed, you can request that the school reassess your child now, even if it has not been three years since the last assessment. You may also request that a specific part of your child's development be reassessed if you feel that new information is needed. Make this request in writing and keep a copy for your files.

Independent Assessments

If you feel that your child has not been assessed fairly or accurately by the school, you have the right to obtain an independent assessment by an outside agency and ask the school to pay for it. The results of this independent assessment must be considered by the school when the student staffing is held to determine if your child is eligible for special education services and, if so, to plan your child's individual educational program (IEP). You and your child may already have been in contact with an outside agency that could do an independent assessment of your child. Also, the school must provide you with a list of places where you can get an independent assessment done.

1. Inform your local school officials, in writing, that you are having your child assessed outside of the school system. Tell them who will do the assessment and why you are having it done. Tell your school the expected cost of the assessment and request that the school arrange to pay for it.

(However, keep in mind that the act of informing the school does not guarantee that the school will agree to pay for costs. The school may claim that its own assessment was adequate and say it will not pay for an independent assessment. If parents wish to pursue the matter and request a due process hearing on the question of payment and if the hearing officer agrees that the school's own assessment was adequate, then the district will not be obligated to pay. If the hearing officer finds that the school's assessment was not adequate to plan an appropriate program for the child, then the district would be responsible for the cost of the independent assessment.)

2. When you request that the school pay for an independent assessment, find out whether they're likely to pay before you proceed. If the district does not agree to pay, consider whether you want to become involved in the costs of a due process hearing that might - or might not - determine that the district's own assessment was inadequate and that the school must pay for the independent assessment.

3. In cases where the school district may not be responsible for costs, surrogate parents may wish to learn if another source of financing is available, i.e., Medicaid, their county's human services department, or Services for Children with Handicaps, for example.

4. Select people to perform the independent assessment who know your child well (if possible), are qualified and certified by the state to perform the assessment, and are at least as qualified as the teachers or other school professionals who performed the school's evaluation.

5. When you meet with professionals about an independent assessment, bring a copy of the records of the assessment already performed by the school.

6. Ask for a written report, based on the new assessment, of what your child can do and in what areas he or she needs help. Also ask for recommendations about an appropriate program for your child.

7. Ask for copies of the results of the independent assessment.

When the assessment has been completed, contact your local school system and tell them about the results of the new assessment.

1. Insist, in writing, that the results be considered by the school's assessment team. Regardless of who pays for the independent assessment, the results must be considered when planning your child's individualized education program (IEP).

2. Inform the school of any outside professionals involved in the independent assessment whom you plan to have take part in the student staffing with you. Parents are allowed by law to bring outsiders with them to the staffing where the child's assessment will be discussed and his/her IEP planned.

THE STUDENT STAFFING (OR I.E.P. MEETING)

After your child has been thoroughly assessed, what comes next? If your child is "new" to special education you must meet with school personnel to discuss the results of the assessment and plan for your child's educational future. This meeting is called a "student staffing", often referred to as a team meeting or IEP conference.

(Remember, parents may request that the school hold a separate meeting prior to the student staffing to interpret and explain the assessment and its results to them.)

The group of people who will serve on the child's IEP team must include at a minimum:

1. a school administrator or someone s/he has designated to represent the school administration, (This would be a person such as a principal or director or coordinator of special education who has the authority to obligate the school's resources in order to make sure that the IEP plan is carried out.)

2. the student's regular classroom teacher, (This gives the teacher most directly associated with a student the chance to offer insights and observations about his/her daily needs and strengths as revealed in the classroom environment.)

3. appropriate special education personnel, (Their presence is necessary so that input can be gained from people most acquainted with a child's handicapping condition and the type of instruction most likely to meet his/her special needs.)

4. other support personnel as necessary,

5. the parent, including a surrogate parent, (Parents have special, ongoing information about the child. The professionals will have many children in their care and may have been acquainted with your child for only a brief time. Parents, on the other hand, have a personal and ongoing interest in the child. They have many insights about the youngster in his/her nonschool environment and a sense of his/her developmental history. They have much to offer the IEP team.)

6. and, when appropriate, the child. (The child may have much to contribute and is more likely to benefit from the program if s/he participates in its development.)

Also, when this is the first time a child has been assessed, someone from the assessment team or someone who's acquainted with the assessment procedures used for the child and familiar with the results must also be present.

Finally, the parent is allowed to bring other persons of his/her choice along to the student staffing. This could include a child's caseworker or a psychologist or physician who's served the child in a non-school setting, for instance.

The parent may request that a school staff member be present who hadn't originally been scheduled to attend the student staffing if it's felt the additional staff member has pertinent information about the child. The school should try, but is not required to, meet this request.

Initially, the purpose of the student staffing is to review the

information gathered during the assessment in order to determine if a child is in need of special education services.

If your child is eligible, the IEP team is then responsible for:

1. planning and writing your child's individualized education plan;
2. recommending an educational placement for your child that meets his/her special needs;
3. assigning responsibilities for carrying out the plans of the educational program; and
4. monitoring and evaluating the success of the plan and placement, and revising it as needed.

If your child is already in special eduation, the student staffing or IEP team must meet at least once a year to decide whether or not to continue your child's current placement or to change it. This meeting is known as the annual review. Sometimes the terms "student staffing" and "annual review" are used interchangeably with both referring to the metings held to plan the child's individualized education program (IEP). For purposes of this manual, "student staffing" will refer to the initial meeting, and "annual review" will refer to all of the meetings held after the child is placed into special education. However, the term "IEP team" refers to the group of people who attend either meeting.

At both the student staffing and annual review, the IEP team should talk about how your child is doing in school, his/her best areas and weaknesses, how he/she gets along with others, and how he/she learns. Remember that this meeting is a time for sharing and discussing information about the child and <u>then</u> making decisions. It is a time to get a clear picture of the child and his/her needs. There may be special considerations that need to be addressed such as class size, building accessibility, educational programming for the child during the summer, or need for a teacher's aide.

If the IEP team members can keep their attention directed toward the needs of your child, the development of an effective individualized education program is more likely to be accomplished. Remember, the IEP team is meeting to make a <u>team</u> decision and not to explain a decision that was previously made in the parent's absence.

The student staffing and annual review must be held at a time that is convenient for you and for the school people involved. The school <u>must</u> notify you in advance of the meeting so that you can make plans to attend. If it is not possible for you to meet at the suggested time, notify the school and request another meeting time when you can attend. Your presence at this type of meeting is a "must" as a surrogate parent.

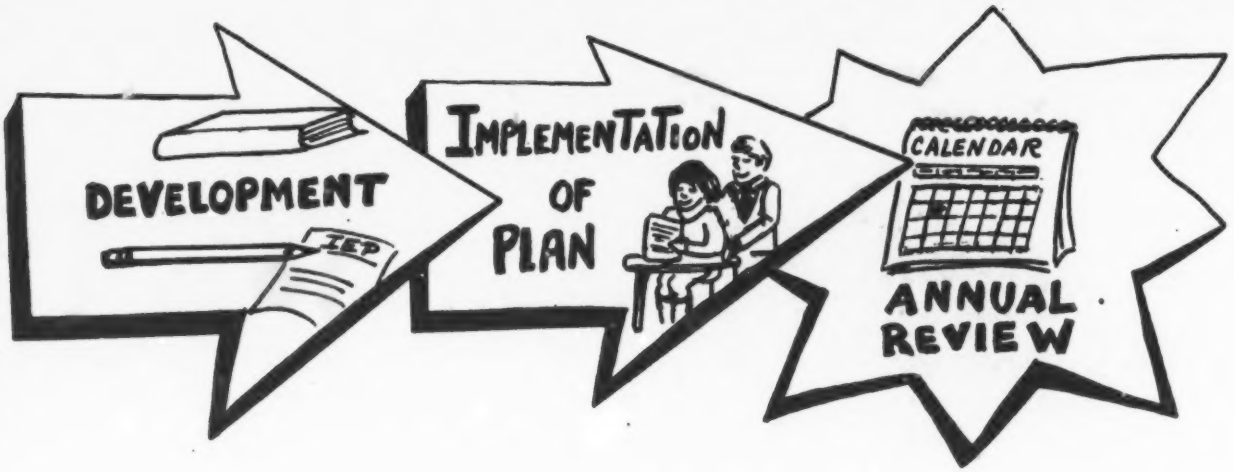
Planning the Individualized Education Program

An individualized education program or IEP is a written statement that spells out what special education services your child needs and what services are going to be provided to meet those needs. Developing the IEP is one of the primary reasons that a student staffing or annual review is held. Just what is an IEP?

-- <u>Individualized</u> means that the plan is specific to your child, based on needs identified in his/her assessment.

-- <u>Education</u> refers to the regular education services, special education services, and related services required by your child.

-- <u>Program</u> means that the IEP is a statement of the services that will actually be provided to the child.



A good IEP should reflect the school's awareness of the needs of your child. If the program is focusing on your child and is designed to educate the youngster in his/her areas of need, then you have succeeded in obtaining a good IEP. A child's individualized education program can be thought of as having three phases:

Phase One: Development

1. Referral
2. Educational assessment
3. Student staffing
4. Developing the written IEP
5. Assigning responsibilities for program implementation

Phase Two: Implementation

1. Program placement
2. Delivery of regular education, special education and related services
3. Assigned responsibilities carried out

Phase 3: Monitoring and review

1. Annual review held
2. IEP reviewed and revised as needed
3. Program placement continued or changed

Phase One: Development

What must be included in an IEP? P.L. 94-142 clearly states the minimum content of each child's IEP. A sample IEP form can be found at the end of this section. The IEP will include:

1. A statement of the child's present levels of educational performance - What can the child do now? This is a complete statement of your child's abilities, strengths and weaknesses in physical, social/emotional, academic, and language development.

2. A statement of annual goals - What is expected from the child at the end of the school year for each area in which the child needs special education? This is the "best guess" of the IEP team as to your child's possible progress.

3. A statement of "objectives", the specific tasks or skills the child will be expected to "master" along the way toward reaching his/her annual goals.

4. A statement of the specific special education instruction and related services that are necessary to meet the needs of the child. The IEP should specify the type of service or program to be provided, the extent to which it will be necessary, the times when the service will be given, and who will provide the service (for example, a teacher, speech therapist, counselor, or other). The classroom and/or building site where the service will be provided should also be determined.

All decisions about the child's placement should be made after the child's needs have been determined and his/her goals and objectives written.

5. A description of the extent to which the child will participate in regular education programs and activities - As you'll recall from earlier sections of this manual, handicapped children are required to receive their educational program in the "least restrictive" environment appropriate to their needs. Minnesota rules state, "A handicapped person shall be removed from a regular educational program only when the nature or the severity of the handicap is such that education in a regular educational program cannot be accomplished satisfactorily. Furthermore, there must be an indication that the person will be better served outside of the regular program."

Parents will want to be sure that the child's IEP follows the "least restrictive" requirements and that their youngster is not segregated from regular education classrooms and classmates any more than his/her needs really require.

6. A statement of when the services will start and how long they will last - this provides a timeline and reduces the possibility of delays or postponements of needed services. The regulations for P.L. 94-142 specify that the IEP is to be implemented "as soon as possible" following the student staffing and approval of the final plan. In comments added to the actual regulation, the U.S. Department of Education said, "It is expected that a handicapped child's IEP will be implemented immediately" following the student staffing - unless a factor such as summer vacation or the need to make transportation arrangements intervened.

7. A plan for measuring the child's progress - in order to determine if the objectives and goals are being met and if the services being provided are appropriate. The IEP should not be treated as a document "set in stone". Instead, if either parents or professionals have reason to believe that a method called for in the plan is simply not resulting in progress for the child, another staffing could be requested in order to modify the IEP and try something more likely to produce results.

8. Communication with surrogate parents - It is important for surrogate parents especially to write into the IEP a plan for ongoing communication between themselves and school personnel. This should include details on who to contact about what, how often, and in what format.

9. Physical education - Whether regular physical education instruction will be provided or if the child will need adaptive physical education.

10. Miscellaneous modifications - What changes will be necessary in the child's total school program to meet any special needs s/he may have for transportation, vocational education, support help from staff aides and so on?

11. Special materials needed by the child - for example, a typewriter, braille equipment, a tape recorder, and so on.

12. Dissenting opinions - anyone on the IEP team who disagrees with the content of the plan can and should write a statement about his/her disagreement.

As a surrogate parent, you will be asked to sign your child's IEP, stating that you participated in its development and that you agree with its contents. Don't feel pressured to sign the IEP if you are unsure about its contents. Take a copy home with you and make a decision after you've had time to read it thoroughly in a more relaxed setting.

You have ten school days from the time you receive the written IEP to decide whether or not to approve and sign it. If you disagree with any aspect of your child's IEP or if you feel that an important and necessary service has been left out, you can refuse to sign it. Use the IEP checklist at the end of this section to help make this decision. If needed, you may request that another meeting be held to discuss unresolved issues and try to work out the problem. (Student staffings or annual reviews may typically take two meetings because of the need to gather more information about the child.) If you still cannot agree to the proposed IEP, there are specified "due process" procedures designed to insure the fairness of educational decision making. You'll be reading about them in "Resolving Differences with the School" in Section Four.

Phase Two: Implementation

The second phase of the educational process involves "implementing" or putting into place the plans made by the IEP team at the student staffing or annual review. Implementation includes actual placement of your child into the program agreed upon at the meeting and the delivery of educational services to him/her. During this phase of the IEP, the responsibilities that were divided among teachers, therapists, other school people, and surrogate parents are carried out.

Program options

Your child will be receiving his/her educational program at one of Minnesota's six "levels" of service. The levels progress from "one" and "two" which are the least restrictive to "five" and "six" which are the most restrictive and segregated. An appropriate IEP for your child will have assured that s/he is in the learning environment best suited to meet individual needs but as close to the regular classroom setting as possible.

The placement of many special education students at a certain level should be viewed as temporary with every effort made to return them to a level where more time is spent in a regular classroom environment. If your child is able to perform better - academically and socially - in a regular education classroom with some help provided to his teacher by a special education teacher or consultant, then that would be his/her most appropriate program. However, it may be more appropriate for the child to be in a special education classroom or resource room part-time and a regular classroom the remainder of the time. There are also those children for whom full-time special education programs will be the most appropriate. The most appropriate program is the one that helps your child to have the

greatest amount of success possible while not restricting him/her any more than necessary.

All of these decisions about placement must be made on an individual basis considering the special needs of your child. They must not be based on what services just happen to be available or on what's the most convenient for the school district.

Finally, parents must receive advance notice from the school district before the child's program as called for by his/her IEP can be changed.

Special education instruction, related services, and support services

The child's IEP must list all of the educational services to which a handicapped child is entitled and that are necessary to meet his/her unique needs as determined by the educational assessment.

The educational services fall into three broad categories: special education instruction, related services, and support services.

P.L. 94-142 defines "special education" as "specially designed instruction, at no cost to the parent, to meet the unique needs of a handicapped child, including classroom instruction, instruction in physical education, home instruction, and instruction in hospitals and institutions."

Vocational education can also be included in this category. Vocational education refers to programs that relate to the preparation of individuals either for employment or for further training for a career that doesn't involve an academic type of degree.

Examples of special education instruction could include: speech/language instruction, instruction in reading and math, adaptive physical education, or teaching deaf children how to sign or a blind child how to read Braille.

"Related services" refers to those services that are required for a handicapped child to benefit from his/her special education services. They can include: speech therapy, audiology (the identification of a hearing loss and services designed to help the child compensate), orientation and mobility training, music therapy, occupational therapy, psychological services (counseling), physical therapy, recreation, assessment of a child's handicap, medical services for diagnostic purposes, school health services, social work services, and parent counseling and training.

Finally, Minnesota rules call for the provision of "support services" to handicapped pupils. These include any specially designed services that assist in the delivery of instruction or related services to a pupil. They can include interpreter services, transportation, management aides, and other similar types of assistance.

All three categories of educational programs - special education instruction, related services, and support services must be provided on the basis of your child's needs and not on availability. The services that are needed are determined during the educational assessment and at the student staffing or annual review. Be sure to specify

in your child's IEP when the service will begin, how long it will be provided and how often, and the arrangements through which it will be offered. For example, "Speech therapy will begin on October 1, 198_, and will be provided by Ms. Joan Johnson on an individual basis three times a week for 30 minutes each session."

Transportation is often an important service for handicapped children. Many students must be transported in order for them to benefit from special education. Some children may ride on regular school buses as other children do. Others may require special transportation services because of their handicaps or special program needs. Either way, these services must be provided at no cost to surrogate parents and in a way that allows the child to be at school for the required length of time.

If your child needs a special form of transportation different from that used by nonhandicapped children, it should be spelled out in his/her IEP. This helps to insure that the service will be provided with little or no delay. If you believe the school isn't providing transportation services that meet your child's needs (for instance, the length of time spent on the bus seems excessive or the arrangements are not adequate), bring this up at the annual review or call a conference to discuss it.

Physical Education is also an area of service that schools and surrogate parents need to think about. All handicapped children should participate in a physical education program, either a regular physical education program available also to nonhandicapped students or a specially designed program called "adapted" physical education. Make sure that physical education - whether regular or adapted - is spelled out in your child's IEP. Remember, P.L. 94-142 requires physical education services for all children. This is a very important part of your child's educational plan.

Phase Three: Monitoring and Review

The final phase of the educational process is the review of your child's program plan and its implementation. According to law, the IEP team which meets to design your child's program must meet at least once a year to review it. At the annual review, the team is responsible for determining whether your child's program should remain the same or be changed.

Since your child's IEP must be in effect at the beginning of each school year, it is usually reviewed toward the end of the previous school year. During the review phase, the cycle returns to the development of a new or revised educational plan (new goals, objectives, services) which is Phase One, and then it goes back into Phase Two, implementation. As you can see, an individualized education program is an entire process that continues to repeat itself.

However, "review" should be thought of as more than just a once-a-year meeting. Monitoring is an ongoing process as parents, teachers, therapists, and others involved with the child constantly evaluate how the child's program is working for him/her and make any changes that are needed.

You do not need to feel limited to a conference once a year. Especially at the beginning, you may have many questions about your child's program. There should be no limit on surrogate parent/school/teacher communication. Surrogate parent/teacher meetings can be held at any time to discuss progress or problems and to revise and change objectives if appropriate.

The annual review is but one very small part of the total picture of parent/school communication. It is designed to protect each child's right to an appropriate education by guaranteeing at least a yearly review and revision, if necessary, of the educational program. But surrogate parents have the right and responsibility to initiate and maintain communication at any time in order to keep current with the child's educational program.

As you can see, your child's IEP is much more than a written document. it is an ongoing process, a tool for planning, implementing, and reviewing your child's educational program. It should never be seen as the final word that locks a changing child into a permanent piece of paper. If the IEP no longer fits your child, change it! Call a conference to rethink what you know about your child and possibly try something new. Regular open communication between the school and surrogate parents will help to insure that your child is receiving the special education and related and support services needed - which is, after all, the purpose of the IEP.

QUESTIONS AND ANSWERS

Q. Is the IEP a legally binding contract:

A. The services described in the IEP must be carried out fully. However, the annual goals and short-term objectives are not legally binding. These describe the hoped-for results of an educational program which may or may not be achieved. You cannot hold the school responsible if your child is not able to attain the goals and objectives listed on his/her IEP. However, these goals should be changed if they are not working.

Q. When does my child's IEP go into effect? How long does it last?

A. Although it may take the school a few days (or even a few weeks, in some cases) to work out the logistics (such as a transportation or speech therapy schedule), it must go into effect immediately upon its approval by the IEP team, which includes yourself. Parts of the IEP may begin at a later date only if this is written into the IEP. A child's IEP must be developed before s/he can begin receiving special education services. An IEP is good for a maximum of one year. At least once each year it must be reviewed and revised if needed.

Q. What is considered a change in a child's IEP/

A. Either adding services to those your child receives or ending a service the IEP said your youngster would receive would be a change of the type requiring parent approval. Also, moving your child from one "level" of service to another (for instance, moving a child from a full time special education classroom to a regular education room for part of the time) would be a change of this nature. Parents must be notified that such changes are being considered so they can meet with school people to discuss the proposal. A change in

your child's services or program placement may not be made if you disagree. However, since this kind of change would not be an initial program placement, unless you object in writing, the school can go ahead with its proposed action.

Q. Can my child receive special services even if I refuse to sign the IEP?

A. The school cannot place your child into a special education program for the first time without your consent. If this is not an initial placement for your child, then the school can go ahead -- unless you file a written protest within a given period of time.

In cases where this is the child's first placement and the parents have withheld their consent or in cases where the youngster has been in a special education program before but the parents have now written to protest the school's new IEP, then the school district would need to initiate appeal procedures if it feels the child cannot be served appropriately without the proposed placement and program. (See "Resolving Differences with the School" in Section Four.)

Q. What if I don't understand what's written into my child's IEP?

A. Because you are not a special education professional and there is often some educational jargon involved in developing an IEP, it is very possible that you won't understand everything that is said at the student staffing and written into the IEP. That's not uncommon. You do, however, need to know how to ask the right questions in order to have these things explained to you in an understandable way. Much more information on this will be presented in Section Four of the manual.

Q. Must the school pay for a physical or medical examination for my child? What about glasses?

A. Usually, a medical or physical examination is arranged for a child outside of school and is the financial responsibility of the family, insurance company, or the county.

However, the school is required to pay for any assessment measures that are necessary to gain additional information needed to program appropriately for your child. This can include paying for medical services that are necessary for diagnosing and assessing your child's special needs. This <u>may</u> include a physical examination by a doctor. If you feel that a physical is an important aspect of your child's assessment, discuss this with the school and obtain their authorization before proceeding rather than having the examination done and <u>then</u> asking the school to pay for it. The school does <u>not</u> have to pay for medical treatment that may be needed as a result of the examination. Nor would the school be required to pay for glasses for your child.

Q. Can my child participate in extracurricular activities? Should this be written into his/her IEP? What about transportation to these activities?

A. Handicapped children should have opportunities to be involved in extracurricular school activities such as sports, service groups, clubs, and art activities just as any child would. Specify in your child's IEP which activities s/he will participate in and whether transportation will be provided. If other children are transported to these activities, then you have the right to ask for this for your child also. If transportation is not provided to other children, but your youngster needs it in order to attend, this should be discussed when your child's IEP is being developed.

Although transportation to <u>extracurricular events</u> when it's not provided for other children is <u>not</u> a right of your child, it could be that participation in this type of activity may be one way for the youngster to reach some of his/her short term objectives. In that case, the IEP

team might decide to write the transportation into the IEP. Keep in mind, however, that transportation to a child's instructional program is a right and must be provided.

Q. Can I ask the school to pay for my child to receive private counseling at another agency?

A. In Minnesota, the general policy is that schools would provide a kind of counseling and educational programming for children with special emotional and behavior needs through their own staff. This counseling and programming would be the type that helps a child resolve or deal with problems that may be interfering with his/her learning program. Schools do not hold financial responsibility for paying for the more intense type of therapy that is practiced by outside agencies, psychiatrists, psychologists, or other mental health professionals. This type of therapy is thought to be a kind of treatment related to the child's mental health needs - not to his/her educational needs (for which schools do hold responsibility).

Q. My child is in high school. Shouldn't s/he have some prevocational or vocational training?

A. Very possibly. This is an area that is often overlooked in developing educational programs for handicapped students in junior high school and high school. Your child has the right to participate in the prevocational and vocational programs offered by his/her school. The program must be adapted to meet your child's needs. Make sure that the goals and objectives of your child's vocational services are included in the IEP.

On the other hand, we should never assume that a handicapped child should automatically enter a vocational program rather than the one's that more academically oriented and will prepare him/her for going on to college.

His/her potential and abilities, not the fact that s/he has a handicap, should guide parents and teachers in designing the type of IEP that will best prepare the student for life after high school.

ASSESSMENT CHECKLIST

	YES	NO	N/A	DATE	FOLLOW-UP
I. Before an Assessment					
I received prior notice that my child was going to be assessed.					
My signed consent was obtained before my child was assessed.					
I was informed about the specific areas to be included in the assessment and the methods to be used.					
If no, I asked for an explanation.					
I received meaningful answers.					
I requested that specific areas be included in the assessment.					
If yes, these areas were included.					
I have asked that pertinent data be obtained from other agencies and used in the assessment.					
II. Content of the Assessment					
All areas about my child that are related to his/her learning problems were assessed.					
The school contacted me for information about my child.					
A team ot people assessed my child, including teachers, a psychologist, and others as needed.					

	YES	NO	N/A	DATE	FOLLOW-UP
More than one assessment approach was used (tests, observations, interviews, etc.)					
My child was observed in the classroom and in other settings.					
The assessment included information about my child's strengths as well as his/her weaknesses.					
The assessment included information about how my child learns.					
The assessment provided a clear picture of what my child needs to learn.					
Based on what I know about my child and what I needed to find out, the assessment was thorough.					
The results fit what I know about my child.					
The assessment gathered meaningful, helpful information.					
III. Reporting Assessment Findings					
I was invited to attend a meeting to discuss the results of the assessment (this meeting may also be the "student staffing" or IEP meeting.					
I was contacted about a mutually agreeable time for the meeting.					
I requested and received a copy of the report prior to the meeting so that I had time to review the results and prepare questions.					

	YES	NO	N/A	DATE	FOLLOW-UP
The assessment findings were reported to me in clearly understandable language.					
If no, I asked for an explanation.					
I received meaningful answers.					
I understand the information obtained from the assessment.					
The report contained clear statements about my child's abilities in various areas.					
If this was a re-assessment, it was conducted no more than three years after the initial assessment.					
IV. My Role in the Assessment Process					
I provided the information to the assessment team that they requested.					
I used my "Student Profile Sheet" to gather information about my child.					
I shared this specific information about my child with the assessment team.					
I feel I made a contribution to the assessment process.					

IEP CHECKLIST

	YES	NO	N/A	DATE	FOLLOW-UP
I. After the Assessment					
I was invited to participate in a meeting (known as a student staffing) to review and/or develop my child's I.E.P.					
The student staffing was scheduled at a time and place that was suitable to me.					
The student staffing included all required participants:					
a school representative					
my child's teacher					
someone from the assessment team					
myself					
my child (when appropriate)					
other people _____					
_____					
_____					
I invited other people to attend the meeting with me.					
Educators presented information in understandable language.					
I was given the oppportunity to ask questions about points regarding the I.E.P. that I didn't understand.					

	YES	NO	N/A	DATE	FOLLOW-UP
I felt like a fully participating member of the IEP team.					
I was encouraged to contribute significant information to my child's I.E.P.					

II. Content of the IEP

(This checklist should be used to determine if your child's IEP is complete. All of the items listed may not be applicable for your child, but the majority of them will be included.)

	YES	NO	N/A	DATE	FOLLOW-UP
The IEP contained the following items:					
My child's present level of educational performance					
Annual goals					
Short-term objectives					
The methods by which the child's progress in meeting the objectives will be measured					
Specific special education instruction and related services to be provided					
The names of the individual professionals who will be working with my child					
Dates services are to begin					
The amount of time my child will be given services (for instance, "Robert will receive speech therapy in half-hour sessions three times a week.")					

	YES	NO	N/A	DATE	FOLLOW-UP
The level of special education services my child will receive (II, III, IV, V, VI)					
Communication strategies established between you and the professionals who work with your child.					
Physical education - regular or adapted					
Any special considerations or arrangements needed by your child					
Any special materials or equipment your child will use					
Any dissenting opinions					
A place for you to indicate your approval or rejection of the proposed IEP					
a. <u>Present Level of Performance</u>					
A description of what my child can do includes information in these areas:					
self-help skills (personal maintenance)					
academic skills (reading, math, etc.)					
social behaviors (how s/he gets along with others)					
physical skills (coordination, running, etc.)					
vocational or pre-vocational skills					

	YES	NO	N/A	DATE	FOLLOW-UP
b. Annual Goals					
The goals are based on my child's assessment.					
The annual goals in the IEP seemed to fully meet the educational needs of my child.					
I was asked to contribute to the annual goals.					
I understood all the annual goals.					
The goals set for my child can be accomplished during the school year.					
The annual goals indicate what my child will be able to do when the services specified in the IEP are ended.					
c. Short-term Objectives					
The short-term objectives are written in specific accordance with each of the annual goals.					
Each short-term objective is written so that the student's progress in reaching it can be measured.					
d. Specific Services					
The IEP clearly states what special education instruction and related service(s) my child will receive this school year.					
The services to be provided and persons who will be providing the services are specified in the IEP (for instance, "Reading instruction in small groups (four students) for one hour each day with learning disabilities teacher, Nancy Johnson.					

	YES	NO	N/A	DATE	FOLLOW-UP
The services for my child were determined by what was needed, not be what was available.					
I understand and am satisfied with the services to be provided and the personnel providing them.					
e. Dates of Service					
The dates for the beginning of services were clear.					
I know when the IEP services will end for my child (if this was agreed to) and what my child's performance is anticipated to be at that time.					
f. Evaluation of Progress					
The method of checking my child's progress includes:					
how it will be checked					
when it will be checked					
who will be responsible for making sure this is done					
who in the school will communicate with me and when					
g. Time in Regular Class					
Some regular class placements were considered during the IEP meeting.					
My child will be in a Level ___special education program.					

	YES	NO	N/A	DATE	FOLLOW-UP
Ways that my child will be integrated with non-handicapped students include: _____ _____ _____					
I am satisfied that every attempt was made to provide services for as much time as possible in the regular classroom.					
I believe that the IEP which we developed best fits my child's educational needs.					
A date was indicated for the review of the IEP.					
I received a copy of the IEP and have placed in it my file.					
III. Placement					
I gave written consent for my child to receive special education services.					
A variety of placement alternatives were available to my child and were explored and discussed.					
I feel that this is an appropriate placement.					
If no, I am investigating alternative placements.					
My child's placement was determined <u>after</u> the team decided what s/he needed and not vice versa.					

	YES	NO	N/A	DATE	FOLLOW-UP
My child's IEP was in effect at the beginning of the school year.					
My child's IEP was developed and in effect <u>before</u> s/he began receiving special education services.					

STUDENT STAFFING SUMMARY and INDIVIDUALIZED EDUCATION PROGRAM

Meeting date _____
Was this a: ___ student staffing
___ annual review

STUDENT INFORMATION:

Name_____ Birthdate_____ Age _____

School _____

Grade Level_____ Teacher(s)_____

Surrogate
Parents_____(phone)_____

Address_____

STUDENT STAFFING PARTICIPANTS: (record names)

Administrator _____ Psychologist _____

Surrogate Parents_____

Regular and Special Education Teachers_____

_____

Student (when appropriate)_____

Therapists/Clinicians_____

Others_____

_____

CASE CONFERENCE RECOMMENDATIONS

School where child will receive services_____

Type of placement required:
___ Level II (Regular education with consultation)
___ Level III (Regular education with special education part of the time)
___ Level IV (Special education services more than half the day)
___ Level V (Special education program fulltime)
___ Level VI (Special education program fulltime and student is in a residential setting away from his/her home)
___ Homebound/hospitalized services

Special education instruction that will be given child: (Either regular or

adapted physical education must be included.)

Type of Service	Who Will Give Service	Duration & Frequency of Service

Related and Support Services Required:

TYPE OF SERVICE	DATE OF INITIATION	DURATION

Transportation _____
Occupational Therapy _____
Physical Therapy _____
Counseling Services _____
Audiology _____
Psychological Services _____
School Health Services _____
Parent Counseling/Training _____
Other _____

Date scheduled for review of the IEP _____

Participation of student in regular education program(s) _____

_____

Special materials needed _____

Communication between school and parents/surrogate parents (who will communicate, how, when) _____

_____

Dissenting opinions _____

_____

I have reviewed my child's educational placement and: ___accept ___do not accept the recommendations of the student staffing (IEP) team.

_____
(signature of parent/surrogate parent)

ASSESSMENT SUMMARY

The kinds of measures used during my child's assessment (Include a description of the name and title of professional who conducted each measure as well as what each measure was designed to discover.)

1.

2.

3.

4.

5.

6.

Present levels of educational performance:

1. Academic (reading, math, etc.)

2. Motor development

3. Self-help skills

4. Social skills and adaptive behavior

5. Speech and language development

6. Perceptual skills

7. Prevocational/vocational skills

8. Other

GOAL AREA:

ANNUAL GOAL:

PERSON(S) RESPONSIBLE FOR IMPLEMENTING:

SHORT TERM OBJECTIVES	EVALUATION PROCEDURES	CRITERIA FOR SUCCESS	DATE OF ACHIEVEMENT

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INTRODUCTION

Good communication between surrogate parents, school personnel, and other professionals is an essential ingredient to effective and meaningful participation in your child's program. It is far more likely that you will be able to fulfill your responsibilities as a surrogate parent if you utilize good communication skills throughout the process. Most important, you should remember that as a surrogate parent you have the same rights as natural parents or guardians in the special education process. One of these rights - in fact, a major responsibility and requirement for surrogate parents - is full participation.

At the school meetings you will attend, you will be one parent among several professionals. This can make you feel somewhat uneasy at first. You have been assured that you, as a surrogate parent, have a legitimate role to play. Yet you might still feel you will be going into school meetings at a disadvantage because of a variety of uncertain feelings. Rest assured - you are by no means alone. Most parents, even the most assertive and knowledgeable, share your feelings. So do many professionals. If you keep this in mind when thinking about school meetings, you will be more likely to meet with professionals as a <u>partner</u> in a joint endeavor.

Effective communication implies that understanding and support is given and received between the parties involved. Real communication is two-way, each side listening to and respecting the other. With this in mind, here are some suggestions for fostering good communication:

1. Be prepared. Know in advance the points you wish to address, the concerns you need to express, and the questions you wish to ask. Write them down before the meeting.

2. Be direct. Address your comments to the person for whom they are intended. Don't communicate through a third person by trying to put words in his/her mouth.

3. Be consistent. What you feel, what you say, how you say it, and the way your body and gestures are saying it should all match. For instance, although you should refrain from losing your temper, trying to smile happily while attempting to discuss a serious point of disagreement may come across as phony and be counterproductive.

4. Be confident. Don't feel guilty for asking questions or seeking additional services that your child needs. You have a right to be there as an equal participant fostering a good team effort.

5. Be under control. You can be assertive and express your points firmly and courteously without losing control. If you "lose your cool," you stand a good chance of losing the opportunity to make your point.

6. Be involved. Ask questions of anyone at the meeting in order to clarify a point or simply as a tool for effective communication. The use of qustions will be discussed more thoroughly in the section on "Communicating at School Meetings."

Remind yourself reguarly that you are an essential part of a team <u>working together</u> on behalf of your child and that the key to successful participation on this team is good communication.

As a surrogate parent, you should not apologize or hesitate to become actively involved because you might not have the same level of knowledge about the child that a parent has. Instead, you should take great pride in the expertise you <u>have</u> developed about the child as you continue to learn about him/her.

PREPARING FOR A SCHOOL MEETING

As a surrogate parent, your most important goal should be an appropriate educational program for your child. This requires that a great amount of thought be devoted to the process of preparation for involvement in planning your child's program. To assist in this preparation, you should:

1. Be prepared to work cooperatively with the professionals involved in your child's program.

2. Think through what you know about your child's needs and seek to learn that which you don't know yet.

3. Think through what you've learned about what your child CAN and CANNOT do.

4. Be prepared to share your questions, concerns, and/or praise as appropriate.

If you are a volunteer surrogate parent rather than a child's foster parent, you may not know, especially at the beginning, as much about the child as others with whom you will be communicating at school meetings (student staffings, annual reviews, or other parent/teacher conferences). That is to be expected, and it should not make you feel inadequate. Your role as a surrogate parent is to represent your child's best interests which can be accomplished, in part, by learning as much as you can about your child. Of course, if you are the child's foster parent, you may be at a slight advantage in terms of your knowledge of your child's abilities, as well as his/her personality and behavior patterns. However, many, if not most, of the suggestions below apply to all surrogate parents and are included to assist you in preparing for school meetings.

A surrogate parent who was involved in representing a child during or before his/her assessment may have acquired this kind of information during the evaluation process. However, if the child you represent had been assessed before you became a surrogate parent, this type of information seeking will need to be done now to prepare for your participation in educational planning and monitoring.

1. Visit your child's classroom. Make an appointment to observe your child in the classroom and talk to the teacher. The teacher will be able to provide information on how the child has been progressing in school. This is a good time to establish rapport with the teacher and to demonstrate your sincerity.

2. If you are not also your child's foster parent, visit the home or facility in which he/she lives and learn about his/her activities there.

3. Talk with other individuals who know or work with your child - the caseworker, therapists, other specialists.

4. Learn about your child's medical history. There may be some medical problems that have affected his/her school work. You should also be aware of medication that the child may be taking since it could affect his/her school day and classroom work.

5. Talk to your child when this is possible. Find out how s/he feels about school. Find out his/her likes and dislikes. Ask if there is something s/he would like to do better.

6. Review your child's records. Make an appointment with the school prior to your meeting and review what

is contained in your child's records. Make certain you understand the evaluation or assessment reports contained in the records. If you don't, be certain to ask questions about anything that is unclear to you. Review information about programs and related services provided in past years.

7. Before the IEP meeting, be sure you understand the nature and basis of your child's diagnosis. Do you have enough information? Do you understand the meaning of the diagnosis? Do you need to find out more about his/her particular handicapping condition?

8. Prepare to share what you know about your child. Jot down some notes about your child to bring to the meeting. (Use the "Student Profile Sheet" in Section One.) If you are the foster parent, you are likely to be able to share such things as interests, hobbies, relationships with family and friends, behavior at home, things the child does well, and things s/he has difficulty with. If you are not the child's foster parent, you may have learned some of these things from people with whom the child lives and from those who have worked with him/her.

9. Prepare a list of questions you wish to discuss at the meeting and be sure to bring the list with you. No question is unimportant since it relates to planning the most appropriate educational program for your child. You might ask in advance what recommendations are likely to be made in order to give you time to think about what you feel is appropriate.

10. Request a copy of the IEP form used by your school district. Use it to review the parts of the program that will be discussed at the meeting and note on it the items you would like to see included and any additional questions you might have. Bring this to the meeting also.

11. Find out who will be attending the meeting. This information should be provided routinely before a case conference, but if it isn't, call the school and ask who will be participating. Is there anyone not listed from the school or outside of the school whom you would like to invite? Notify the school if you intend to bring someone (friend, advocate, outside professional who may know or have worked with your child.)

12. Be prepared to discuss your expectations for your child. You may want to talk with other parents and surrogate parents who have attended student staffings before attending your own. (To locate these people, ask that the person in charge of the surrogate parent program pass your name on to "veteran" parents and see if they will get in touch with you - school districts aren't allowed to simply give you names due to laws protecting privacy. Or ask others at parents' meetings to find persons who could be of help. Finally, you can contact one of the parent or advocacy groups listed in the appendix of the manual.)

13. Jot down what you think your child needs and the extent of progress you think might be realistic for the year. You should be certain to consider your child's vocational and prevocational needs.

14. Investigate other programs offered by your special education district that may be considered appropriate for your child.

15. Determine how your child's school program relates to what s/he does at the place where s/he lives.

Attempt to work for some measure of consistency between the two. Contact someone from the residence to attend school meetings with you if you feel that his/her input would be valuable.

These points are included as a framework to assist you in preparing for meaningful participation in planning your child's educational program. Adequate preparation is not a simple matter and, if done well initially, will take some time. The time, however, will be well spent in increasing your level of knowledge about your child, thus enabling you to communicate as an effective and responsible surrogate parent.

COMMUNICATING AT SCHOOL MEETINGS

The student staffing and other school meetings are a crucial part of your child's educational program. The success of these meetings depends largely on the preparations that parents and surrogate parents make. Not all parents, however, take advantage of their right to participate. Therefore, your input and participation may be a new experience for the professionals with whom you're working. You will have to take the greater responsibility for this involvement. Parents and surrogate parents must constantly work to make their participation extend beyond giving consent and accepting explanations. You must participate by asking questions that give direction to the team's attention, raise issues, gather information, and clarify points.

Remember before each school meeting that the professionals with whom you meet are likely to be experiencing uncertainties similar to yours. This might help you to meet them more easily as partners in a joint endeavor. In order to participate as a positive and assertive team member, it is essential to foster an attitude of mutual respect. Communicate respect for the other participants and, at the same time, expect to be treated yourself with respect as an equal partner.

It is crucial to maintain positive and assertive behaviors in all of your contacts with professionals. It is equally important to avoid non-assertive and aggressive behaviors and responses. The following list of "don'ts" points out examples of nonassertive and aggressive responses which certainly do not foster a positive joint endeavor and should be avoided at all costs:

1. Don't feel obligated to agree with everything said.
2. Don't be afraid to ask questions or share concerns.
3. Don't belittle others.
4. Don't be defensive.
5. Don't dominate the meeting.
6. Don't be manipulative.
7. Don't lose your cool.

Basically, if you utilize common sense and employ good human relations skills, you will find it far more likely that a positive joint endeavor will be realized. The importance of thinking through and writing down in advance the specific questions you plan to ask at school meetings has been mentioned previously several times. All parents and surrogate parents can effectively use questions as a tool to involve themselves, indicate their commitment to appropriate services for their child, and assert their rights.

Questions are a valuable tool because they help you to be active rather than passive. Questions increase your concentration on what is being said. Using questions may help you shape the direction in which the meeting is going.

Parents, surrogate parents, and professionals must learn not to fear questions but to respect them. You must not let the fear of asking what might sound like a "dumb" question stop you from asking. You must not let the fear of possibly upsetting the professionals stop you from asking questions either. Dedicated professionals are dealing with children and their parents and surrogate parents, and you have a responsibility to double check on behalf of your child.

You can prepare for easier communication and the kinds of questions you wish to ask by reviewing the checklists in Section Three on the points that must be covered in assessing your child and considered when developing his/her IEP.

There is no question that professionals have the advantage in terms of teaching methods and training. You should recognize this, but also understand that it does not make you incapable of asking questions and providing valuable input. It does not mean you are trying to assume the job responsibilities that belong to the professionals, but rather that you want the skills you have learned and the commitment you have made to be recognized and respected. A concerned and informed surrogate parent has a right to be seen as an equal participant who need not apologize nor be overlooked as "non-professional."

It is important to realize that teachers are not miracle workers and are not necessarily responsible if the child does not succeed. Teachers are generally dedicated, interested professionals trying to do a good job. Parents and surrogate parents must learn to view the school staff as fellow human beings with similar needs for respect and recognition. You must learn to express your concerns and dissatisfaction freely but without attacking and being undiplomatic. As you increase your participation and involvement as a surrogate parent, you should also round out the range of your comments. If a job has been done well, and a program has been beneficial and successful for your child, that information should be shared as freely as concerns are.

There is no question that parents and professionals must work hard to establish a mutually satisfying relationship. If we keep the best interests of children in mind, we realize that we cannot afford to let insecurities and differences block a cooperative effort to provide the best possible education for those children.

REPORTING PROGRESS AND CONCERNS

Good communication requires an on-going effort on the part of parents and surrogate parents and professionals. There is no question as to the importance of positive and meaningful communication at student staffings and other school meetings, but the importance does not stop here. It is equally, if not more important, to maintain communication throughout the school year in order to monitor the child's progress and attempt to resolve minor difficulties before they become major problems.

As a surrogate parent, you should be certain to set up a mechanism for regular communication with the school (and the home or care facility in which the child resides) between official conferences. Regular visits to the child's class might be planned, as well as a system of communicating by mail or phone. In some cases, you may have to take the initiative to set up the mechanism, but whether or not this is the case the best interests of the child cannot be served unless all people involved in his/her educational program are aware of his/her progress. It is quite appropriate to have this system of communication written into your child's IEP.

It is important, also, for volunteer surrogate parents (those who aren't also a child's foster parent) to be certain that they receive any bulletins, newsletters, or other communications that are sent home from school. Request that these be mailed to you so you can be kept aware of all school activities and other matters routinely communicated to parents or care providers at the child's residence.

The IEP itself serves as a communication vehicle. You should look it over from time to time between meetings to note whether or not your child's progress reports reflect the goals listed. As stated earlier, you have the right to request a conference to review the IEP at any time if you feel that it is appropriate to do so.

Open and frequent two-way communication between you and the school gives both an opportunity to express concerns, programs needs, observations, and praise. For the best working relationship with the school, you must be prepared and willing to assume your responsibilities. You must be involved and learn about your child's needs and abilities. At the time of the student staffing, you begin to establish this level of your involvement. The more prepared you are, the more confidence you will have and the more involved you can become. Your involvement, of course, does not stop with that meeting. It is on-going and enhanced by maintaining regular communication with the school.

RESOLVING DIFFERENCES WITH THE SCHOOL

It is always hoped that student staffings - with input and participation by all on the IEP team, parents included - will end in mutual agreement and an appropriate IEP for the child.

However, in real life, this doesn't always happen. Sometimes, parents and the school find themselves disagreeing over what's best for the child, how to meet his/her special education needs, and, perhaps, what the child's actual needs really are.

Parents will always want to try first to resolve differences through informal meetings with teachers and administrators to discuss a problem or perhaps by telephoning or corresponding with key personnel. The informal means, quite simply, are less stressful, less time consuming, and less likely to result in parents and schools becoming adversaries than more formal procedures are.

When the informal measures don't resolve a conflict, though, other courses are provided by law that a parent may take. The participation of parents in the whole special education process was given meaning and significance by two key factors:

1. Schools can not proceed with certain actions without parents' written consent.
2. In cases of disagreement, parents (and schools) may follow established and formal routes to have their concerns heard and considered.

Parent consent

1. Before a school district can assess a child for the first time to see if s/he is eligible for special education services, it must seek and obtain written consent from his/her parents. If consent is not granted, the district cannot proceed with the assessment at this point.

2. Before a school district can reassess a child who has been receiving special education services, it must notify the parents. If they simply do not respond to the notice, the school district may proceed. The district may not proceed, however, if the parents file a written refusal within ten school days after receiving the notice.

3. Before a school district may place the child in a special education program for the first time, a notice must be sent to the parent which includes the IEP plan that has been developed for the child. If the parents do not approve of the plan and the special education placement, the district may not proceed at this point to put the proposed program into effect.

4. Before a school district can make any changes in the child's IEP plan once it is in effect or in his/her special education placement, it must notify the parents. Because this is not an initial placement, the school district may proceed with its

proposal if it does not hear from the parents. If, however, the parents do file a written objection within ten school days of receiving the plan, the district may not proceed with the proposed changes at this point.

Conciliation conferences

When parents either withhold their permission in the case of a "first time" proposal for an assessment or special education placement, or when they file a written refusal in the case of a later reassessment or change in the child's IEP or placement, school districts in Minnesota may encourage the parent to meet with the school for a "conciliation conference."

A conciliation conference represents an intermediate attempt to resolve differences before proceeding on to a more formal "due process" hearing. It must be held within a certain time frame, and it brings together all the parties involved to review the reasons for the proposed action and the cause for objection by the parents.

Conciliation conferences have proven to be effective in Minnesota in resolving differences without taking matters before a more time consuming and expensive "due process" hearing.

However, if parents feel a conciliation conference would not be productive, they have the right to ask that it be set aside and that all parties proceed directly to the formal "due process" hearing.

Due process hearings

A request for a due process hearing can be made by either the school or parents. This is a procedure used - not when schools are thought to be violating a law - but when parents and schools simply disagree over the child's needs or program and how best to serve the child. Minnesota's "complaint" procedure is designed for parents who feel a school is actually out of compliance with (in violation of) the law and will be described in following pages

It should also be kept in mind that all of the procedures involved in resolving differences have strict timelines involved with each step. The timelines may be found throughout the copy of state rules located in the back of the manual. An awareness of them is especially important to parents actually involved in any of the procedures. The timelines provide a framework that puts responsibility on both the school and parents to act in a timely fashion so that there are no undue delays in resolving the differences that may stand in the way of a child receiving an effective educational program.

As described, a due process hearing is a formal method of resolving differences. Basically, it provides both the school and parents with an opportunity to present their case in front of a "third party", an impartial hearing officer.

School districts will hire attorneys to represent them at the due process hearing, and parents will want to also have legal counsel available to present and help guide their case. Parents will also find it helpful to talk with an agency knowledgeable about special education issues and handicap concerns in preparation for the hearing.

Regardless of which party has initiated the due process hearing, the parent will receive an advance notice which includes information about:

1. the time, date, and place of the hearing,

2. their right to receive a list of the persons who will testify on behalf of the district and their responsibility for providing the district with a similar list of people who will testify on their behalf,

3. their right to receive any information the school plans to introduce about the proposed action which was not included in the initial notice of the action,

4. the concept that the burden of proof during the hearing is on the school district to show that the proposed action is justified,

5. the fact that the hearing officer will make a written decision not more than 45 days following the receipt of the request for the hearing, and

6. the fact that the hearing officer's decision will be binding unless appealed to the Minnesota Commissioner of Education by the parent or school district.

The due process hearing will be closed (i.e. not open to non-involved individuals) unless the parents request that it be opened. Both parties have the right to be represented by legal counsel of their own choosing (a school district must furnish to parents, upon request, a list of free or low cost legal resources available in the area.)

Both the parents and the school have the right to request the attendance and testimony of any person who may have evidence relating to the proposed action. They also have the right to question and cross examine each of these witnesses.

A tape recording or other record of the hearing must be made by the school district. If an appeal of the hearing officer's decision is made by the parents or school, the record of the hearing must be transcribed by the school district and made available within five days of the filing of the appeal.

The hearing officer's decision, which would be binding unless appealed, could be in favor of the school district, in which case the district could proceed with the proposed action. Or the hearing officer might find that some but not all of the district's proposal should be implemented; for instance, s/he might rule that the child does need special education services, but not the type or level of service that the school had proposed. Finally, the hearing officer might, of course, rule in favor of the parent, in which case the school's proposed action could not take place.

MINNESOTA'S COMPLAINT PROCEDURE

WHAT IS A COMPLAINT?

A complaint is an allegation that special education laws and regulations are not being fully implemented by a public school.

WHO MAY FILE A COMPLAINT?

Parents of handicapped children, organizations or groups, school district employees, or other interested parties may file a complaint.

WHAT STEPS SHOULD I TAKE BEFORE FILING A COMPLAINT?

1. Contact your child's teacher, building principal, director of special education, or superintendent. Let him/her know of your concern.

2. You may wish to contact a parent advocacy group to discuss your concerns. Check the resource guide section (Section Six) of this manual for names, addresses, and telephone numbers.

3. You may wish to discuss your concern with a person from the Office of Monitoring and Compliance: (612) 297-2843 or (612) 297-3056.

4. Reasonable efforts should be made to resolve the problem at the local level before filing a complaint.

IF ATTEMPTS AT SOLVING THE PROBLEM WITH THE LOCAL SCHOOL DISTRICT FAIL, HOW DO I FILE A COMPLAINT?

The Office of Monitoring and Compliance has a form that you may use to file a complaint. You may use this form or you may put your concerns in a letter and send it to: Manager of the Office of Monitoring, Minnesota Department of Education, 303 Capitol Square, 550 Cedar Street, St. Paul, MN. 55101.

Complaints must be in writing. If you need assistance regarding making a complaint, or if you would like to have a form to use in filing a complaint, call the Office of Monitoring at (612) 297-2843 or (612) 297-3056.

WHAT SHOULD I INCLUDE IN THE COMPLAINT LETTER?

1. Describe the problem.

2. Include the efforts made to resolve the problem between you and the local school district.

3. Include copies of documents such as IEPs, notices, etc. which relate to the problem.

WHAT HAPPENS NEXT?

1. After receiving your letter, it will be reviewed by the Office of Monitoring and Compliance.

2. If the issues are appropriate for the complaint procedures, then:
   a. A letter is sent to the district superintendent stating that a complaint has been filed.
   b. The letter to the superintendent identifies who filed the complaint, what it is about, and what federal and/or state regulations are involved.

3. A copy of the letter to the school district is also sent to those filing the complaint.

4. If necessary, the person filing the complaint may contact the complaint officer and may correct any errors made in summarizing the issues.

HOW IS THE COMPLAINT INVESTIGATED?

The Office of Monitoring and Compliance contacts appropriate district personnel regarding the concerns. When necessary, on-site visits are made to the local district. Attempts are made to work out a resolution to the problem with the parties involved. Also, when necessary, other specialists in the Department of Education are consulted and involved.

WHEN CAN I EXPECT TO RECEIVE THE FINDINGS OF THE COMPLAINT?

If the parties, with the assistance of the State complaint specialists, are able to work out an agreement to the problem, this agreement is prepared and sent to the parties within 10 days of the meeting. The provisions of the agreement are then implemented.

If an agreement is not reached, the State issues a formal preliminary decision within 50 days of receipt of the complaint. Each party has 10 days to comment on the accuracy of the report. A final decision is issued within 60 days from the receipt of the complaint unless unusual circumstances require additional investigation.

WHAT ARE THE POSSIBLE OUTCOMES?

1. It may be found that the school district is following the special education regulations and rules.

2. The problem(s) may be resolved during the investigation of the complaint and an agreement reached.

3. In cases where the school district is not following the required special education regulations or rules, the district will need to correct the problem within specific timelines.

4. The State, in exceptional circumstances, may initiate further investigations or auditing if the complaint raises complex questions.

APPEALS CAN BE MADE

Either party may appeal the State Education agency's final decision to the United States Assistant Secretary of Education.

MEETING OTHER PARENTS

In taking on the responsibilities of a surrogate parent, you have made a commitment to oversee the educational services provided to your child and to help insure that these services are the most appropriate for him/her. It is a significant commitment requiring an investment of time and energy.

As you begin fulfilling your responsibilities as a surrogate parent, attempt to meet others who have taken on this role, as well as other parents of handicapped children. Experienced individuals who have been through the process of insuring appropriate educational programs for their children can serve as valuable resources to those who are just starting out. If you attended a training session for people interested in becoming surrogate parents, it is likely you met others in your position with whom you might find a mutual sharing of questions and concerns beneficial.

Try to meet parents of your child's classmates. The school might have an annual Open House, regular PTSA meetings, school programs, and other events. Whenever possible, join a parent group - one connected with your child's school or program, or a committee begun for a specific purpose. Talking to other parents can provide you with valuable support.

You are by no means alone. Many of Minnesota's 77,000 handicapped children in special education programs will be in need of surrogate parents, and people who can fill that role will be appointed throughout the state. Try to maintain on-going contact with other individuals in your area who have taken on a similar responsibility. Work together to assure that your children receive the most appropriate educational programs.

SUMMARY

-- As a surrogate parent, you have the same rights as a parent has in the special education process, and you should attempt to work with the professionals involved as partners in a joint endeavor.

-- Good communication at and between school meetings requires confidence, good listening skills, mutual respect, involvement, and adequate preparation.

-- When attending school meetings, it is important to share information that you have learned about your child through visiting his/her school program, meeting him/her, and reviewing the educational records.

-- Your participation as a team member is enhanced by maintaining a positive and assertive manner and avoiding aggressive and nonassertive behaviors.

-- Prior to the meetings, it is wise to prepare a list of concerns and questions - an effective tool for meaningful participation - that need to be addressed.

-- Reviewing the IEP checklist in Section Three will be helpful in increasing your confidence as an equal participant in the process.

-- It is vitally important to set up a mechanism for on-going communication between you and the school.

-- Review your child's IEP from time to time to be certain that his/her progress reflects established goals.

-- If you and the school are not in agreement on an issue about your child's educational program, it is best to attempt to resolve your differences informally through discussions and meetings with school people.

-- If the differences cannot be resolved through informal means, you may need to seek a conciliation conference or to initiate a due process hearing.

-- If you believe the school is actually out of compliance with special education laws, regulations, or rules, you may make use of Minnesota's "complaint" provision.

-- It is advisable to meet other parents and surrogate parents who can serve as a tremendous resource to a surrogate parent just beginning to fulfill his/her responsibilities.

-- As you begin your new role as a surrogate parent, it is important to keep in mind that you have a right to be involved in every step of the special education process for your child. This involvement requires a commitment to gaining knowledge about your child and to establishing yourself as an equal team member when important decisions are made. Equally important, this involvement can be of greater benefit to your child when you utilize and maintain positive and assertive communication techniques.

QUESTIONS AND ANSWERS

Q. I am a volunteer surrogate parent and feel a lack of confidence because I don't know my child very well. How can I participate fully in planning his/her educational program?

A. As a volunteer, there is no way that you can be as familiar with the child as a natural parent or a foster parent because you don't live with him/her. That's all right! Merely by agreeing to take on the role of a surrogate parent, you have made a commitment to learning about your child. That takes time. By asking questions of those who do know your child and by following the suggestions included in this manual, you will begin to be sufficiently informed and knowledgeable about the child's needs in order to assist in planning for his/her educational program. The learning is an on-going process. Remember, talking to other parents and surrogate parents can be of help in increasing your level of confidence.

Q. If I participate as fully in the meetings as is suggested by the manual, won't I be looked upon suspiciously by the professionals involved?

A. The attitude with which you participate is the key. If you consistently question the professionals in a negative manner and take exception to everything they say, it is likely that you will be viewed suspiciously and will not be treated with great warmth. However, if you use the suggestions for positive and assertive communication, it is more than likely that you will be treated as an equal participant. In the final analysis, dedicated professionals would prefer meeting with parents and surrogate parents who are sincerely involved participants - rather than with persons who are passive and unconcerned. Parents and professionals must learn to listen to and respect each other's concerns and priorities.

Q. What if, after receiving the list of those who will be attending the student staffing, I notice that a particular specialist who works with my child is not included among those who will be present?

A. If you feel that it is important to have a specific person present because s/he has important information to share which might have some impact on planning your child's program, by all means request that this person be invited. You have the right to do so. If the individual in question is unable to attend because of a schedule conflict, you could request that the meeting be rescheduled at a mutually convenient time.

Q. Is it permissible for me to tape record the school meeting?

A. Nothing in the regulations says you can or cannot record the meeting. It can, however, be viewed as threatening by school personnel. Should you wish to tape record the meeting, it would be advisable to mention at the outset that you plan to do so in order to have a record of the discussions and to avoid the necessity of taking copious notes. Some individuals find it helpful to listen to the recording afterward in order to review segments of what was said.

Q. What if, during the student staffing, the greatest emphasis is placed on development of my child's academic skills, but it is my opinion, based on observation of the classroom and review of his/her records, that my child's needs indicate greater emphasis should be placed on improving his/her self-help skills?

A. In helping some children to function independently, the development of self-help skills may be every bit as important as academics, if not more so. As the surrogate parent, you have the right to indicate your feelings about the priorities of

your child's program needs, and you should not be reluctant to do so. You should, of course, be prepared to document your feelings with specific reasons based upon your observations

Q. I have requested a specific service for my child, and the school has responded that the service cannot be provided simply because they do not have the money. What can I do?

A. There is no question that funding cutbacks at the federal and state level are affecting schools. However, this in no way indicates that the needs of handicapped children should not be addressed. It cannot be used as an excuse for not providing appropriate programs.

You and your school district might explore alternative ways of serving your child. If the service required is not available at your child's school, perhaps someone from another school might be able to spend time working with your child. Or the service might be available in a neighboring school district with whom a cooperative agreement might be established.

In any case, be certain, if the assessment showed that the service is needed by your child, that a temporary plan is written indicating what will be done to help your child (until the services can be provided in an appropriate manner). Be certain to monitor this process to avoid undue delay. Should these suggestions fail, review the material covered earlier in this section of the manual on Minnesota's "complaint" provision.

Q. What if the school simply won't listen to what I have carefully determined to be my child's needs in his/her school program?

A. The first step is always reasonable discussion with school personnel, beginning with the classroom teacher and going as far as your director of special education or your superintendent, if needed. Should these discussions fail, it would be wise to contact a parent or advocacy group for its assistance in deciding if it would be advisable to exercise your options for filing a formal complaint or requesting a conciliaton conference or due process hearing.

Q. If I request a conciliation conference or due process hearing, what happens to my child in the meantime?

A. During this process, your child will remain in the educational program in which s/he was placed at the time of your request for the conference or hearing. Should you and the school district agree, the child may be placed in a different program pending the decision of the hearing officer. If your child is not yet in an educational program, s/he may be placed temporarily in a public school program until the proceedings have been completed - but ONLY with your consent.

Q. I have a quick temper and often can't deal rationally with others in a position of authority. What would you suggest?

A. If you recognize this as a potential problem in working effectively with school personnel, at least you are being honest with yourself. If this, in fact, is the case, you may find it advisable to have someone (another parent or surrogate parent or an advocate) accompany you to school meetings. Perhaps you would be less likely to "lose your cool" if you had the support of another person with you. The person accompanying you might also speak for you if you are having difficulty expressing yourself in unemotional terms. You might find that as you become more accustomed to attending school meetings, your confidence will increase and your fears of losing control will be lessened.

Q. I am basically not an assertive person and find that I often lack confidence when talking to professionals who are experts in their fields. Can I still be an effecive surrogate parent?

A. By taking on the role of a surrogate parent, you have indicated a commitment to representing the best interests of your child. It is important to realize that you are not expected to become an expert in special education methods. The special education professionals are trained to develop this expertise.

You are expected, however, to recognize that you have a legitimate role (specified in state and federal law) to help in planning and monitoring your child's program. As you learn more about your child and begin to participate in the special education process, you will be able to fulfill that role more comfortably. Never hesitate to ask a question. Questioning does not indicate ignorance: on the contrary, it indicates involvement and a desire to learn.

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LEE NEEDS A SURROGATE PARENT

—A Case Study—

Perhaps one of the easiest ways for you to learn about your role as a surrogate parent is for you to follow the process along with a surrogate parent who has been assigned to a child who lives in a group home.

Included in this case study are the following:

1. A brief history of Lee Laxdahl
2. A description of Bill Johnson, a volunteer surrogate parent
3. Portions from a "Surrogate Parent Contact Log"
4. A "Student Profile Sheet" (written by Bill Johnson)
5. An "Annual Review" report
6. A "Student Staffing Summary and Individualized Education Program"
7. Examples of some goals and objectives from Lee's IEP
8. Samples of correspondence between Bill Johnson and Lee's school.
9. Notification of parental rights in granting or refusing approval of school requests.

The following people are part of this case study:

1. Lee Laxdahl, a 15-year-old boy
2. Bill Johnson, his surrogate parent
3. Dr. Alice Smythe, a special education director
4. Sally McKeever, Lee's teacher
5. Mike Fredin, a speech therapist
6. Joan Mays, am occupational therapist
7. Bob Turkavich, principal
8. Edith Swanson, the director of Lee's group home
9. Tom Johnson, a county caseworker

Lee's History

Lee Laxdahl is a 15-year-old boy who has been a ward of the state for ten years. His mother died when he was a baby, and his father cannot be located. Lee lived in a foster home from age 5 to 13 and has since lived in a group home, the Hiawatha Center.

Lee has attended Washington Junior High ever since he moved to the group home two years ago. Washington is a regular junior high school building, and Lee is in a full-time, or Level 5, special education class for mentally retarded students within that building. There are eight students in Lee's class with one certified teacher and one aide.

Before enrolling in Washington Junior High, Lee was in a special education program in a separate school for handicapped students.

Lee's primary handicapping condition is mental retardation. He is able to understand most of what is said to him (i.e. his "receptive" language ability is adequate), but he has difficulty with his own speech and language ("expressive" language) and often becomes upset when others can't understand what he is saying.

Since he came to Washington Junior High School, Lee has received the following special education instruction and related services:

1. placement in a junior high special class for mentally handicapped students (Level 5);

2. speech therapy two times each week for 30 minutes per session; and

3. transportation to and from school.

Lee's teacher, Sally McKeever, feels that Lee may also need some special help with his fine motor coordination to carry out tasks more effectively.

Because he has no natural parents available, Lee has had no parental representation in the planning and monitoring of his special education program. Tom Johnson, his county caseworker, did attend the first student staffing for Lee when he moved to the Hiawatha Center and signed for his placement into the program. He has not attended any meetings since then, but he does call Lee's teacher periodically to check on Lee's progress. Dr. Alice Smythe, the director of the special education cooperative that serves Washington School, has recently identified Lee as a student who is eligible for the assignment of a surrogate parent. She has appointed Bill Johnson to fill this role.

A Description of Bill Johnson

Bill Johnson works for a food company in Amarillo. He is the father of an eight-year-old girl and has worked with children and young people for the past four years as a volunteer youth leader in a park program in his community. He read about the surrogate parent program in a newspaper article and decided that he would like to become more involved in advocating for the special needs of a handicapped young person.

In March, he called Dr. Smythe and inquired further about the rights and responsibilities of surrogate parents. She explained this role and asked Bill to attend a three-hour training workshop designed specifically for surrogate parents.

At the workshop, Bill learned more about the special education process and the role of surrogate parents in the process. At the conclusion of the workshop, he received a certificate recognizing his workshop participation, and he completed a volunteer registration form indicating he would like to serve as a surrogate parent. He also indicated on the form that he would prefer to be assigned to a student in junior high or high school. Approximately ten days after the workshop, Bill received a letter of assignment from Dr. Smythe. He is now ready to start his job as a surrogate parent for Lee Laxdahl.

Little Sioux Special Education Cooperative
123 School Boulevard
Amarillo, MN. 99999

October 15, 1984

Bill Johnson
321 Anderson St.
Amarillo, MN. 99999

Dear Mr. Johnson,

The Amarillo School District would like to appoint you as a surrogate parent in accordance with both federal and state laws and regulations (Code of Federal Regulations, title 34, section 300 and Minnesota State Board of Education rules 3525.2430 through 3525.2455.) Copies of the pertinent regulations and rules have been enclosed.

As a surrogate parent, you will have all the rights and responsibilities of parents in matters relating to the special education process. Your duties will include representation of the child in all matters relating to the special education process. Those duties will be explained further during a short training course; my secretary will contact you this week to arrange a training schedule at a time convenient to you.

The child with whom we have matched you is Lee Laxdahl, age 15. Lee is currently a ward of the State and a resident of the Hiawatha House in Wineota. He attends school at Washington Junior High in Amarillo. The principal there is Mr. Bob Turkavich, and Lee's teacher is Ms. Sally McKeever. Both may be reached by contacting the school at 345-6789.

If you have any questions about your appointment or your rights and responsibilities as a surrogate parent, please call me. We appreciate your volunteering to participate in this program and are pleased that you met the eligibility criteria as specified in the attached rules and regulations.

Sincerely,
Dr. Alice Smythe
Dr. Alice Smythe
Special Education Director

Enclosures

Minnesota Rules Concerning Surrogate Parents

3525.2430 DEFINITION

A surrogate parent is a person appointed by the providing district to ensure, by intervening on behalf of a pupil, that the rights of the pupil to a free and appropriate education are protected. The surrogate parent shall not be a person who receives public funds to care for the child. However, a foster parent may serve as a surrogate parent if appointed and if no conflict of interests exists.

3525.2435 EFFORT TO LOCATE PARENT

Reasonable efforts shall be made to locate the parent. These may be made through documented phone calls, letters, certified letters with return receipts, and visits to the parent's last known address.

3525.2440 SURROGATE PARENT APPOINTMENT

The district shall appoint the surrogate parent when:

A. the parent, guardian, or conservator is unknown or unavailable; or

B. parental rights have been terminated; or

C. the pupil is a ward of the State; or

D. the parent requests in writing the appointment of a surrogate parent; the request may be revoked in writing at any time.

3525.2445 CONSULTATION WITH COUNTY WELFARE

The district shall consult the county welfare office before appointing the surrogate parent when a pupil is the ward of the commissioner of public welfare.

3525.2450 REMOVAL OF SURROGATE PARENT

A surrogate parent may be removed by majority vote of the school board. The surrogate parent must be notified of the time and place of the meeting at which a vote is to be taken and of the reasons for the proposed removal. The surrogate parent shall be given the opportunity to be heard. Removal may be for any of the following reasons:

A. failure to perform the duties required in the team meeting and IEP process and those cited in the Code of Federal Regulations, title 34, section 300, a federal regulation to implement Part B of the Education of the Handicapped Act;

B. conflict of interest as referenced in Code of Federal Regulations, title 34, section 300.514 (c) (2);

C. actions that threaten the well-being of the assigned pupil;

D. failure to appear to represent the pupil; or

E. change in eligibility for special education.

3525.2455 SURROGATE PARENT KNOWLEDGE AND SKILLS

The district shall either make the information and training available to the surrogate parent or appoint a surrogate parent who has all of the following

knowledge and skills:

A. state and federal requirements;
B. district structure and procedures;
C. nature of the pupil's disability and needs; and
D. an ability to effectively advocate an appropriate educational program for the pupil.

300a.514

(a) General. Each public agency shall insure that rights of the child are protected when: (1) No parent can be identified; (2) The public agency, after reasonable efforts, cannot discover the whereaabouts of a parent; or (3) The child is a ward of the State under the laws of that state.

(b) Duty of public agency. The duty of a public agency under paragraph (a) of this section includes the assignment of an individual to act as a surrogate for the parents. This must include a method (1) for determining whether a child needs a surrogate parent, and (2) for assigning a surrogate parent to the child.

(c) Criteria for the selection of surrogate parents. (1) The public agency may select a surrogate parent in any way permitted under State law; (2) Public agencies shall insure that a person selected as a surrogate: (i) Has no interest that conflicts with the interests of the child he or she represents; and (ii) Has knowledge and skills that insure adequate representation of the child.

(d) Non-employee requirement: Compensation. (1) A person assigned as a surrogate must not be an employee of a public agency which is involved in the education or care of the child; (2) A person who otherwise qualifies to be a surrogate parent under paragraph (b) and (c) (1) of this section is not an employee of the agency solely because he or she is paid by the agency to serve as a surrogate parent.

(3) Responsibilities. The surrogate may represent the child in all matters relating to: (1) The identification, evaluation, and educational placement of the child, and (2) The provision of a free appropriate public education to the child.

Code of Federal Regulations, title 34, section 300

Bill Johnson
SURROGATE PARENT'S NAME

SURROGATE PARENT CONTACT LOG

Lee Laxdahl
STUDENT'S NAME

DATE	ACTION (CALL, VISIT, LETTER, ETC.) AND NAME AND TITLE OF PERSON CONTACTED	SUMMARY OF RESULTS	FOLLOW-UP NEEDED?
10/17/84	received letter of assignment from Dr. Smythe		Look at checklist of surrogate parent activities in Manual
10/17/84	called Sally McKeever, Lee's teacher	made appointment to meet Lee and visit his classroom on 10/26	read sections in Manual about IEP + records.
10/17/84	called Edith Swanson, director of Lee's group home.	made appointment to visit group home on 11/1	take Lee's profile sheet to school & home
10/20/84	called Tom Johnson, caseworker	talked about Lee's past, the group home, what Tom thinks about Lee's school program.	

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Bill Johnson
SURROGATE PARENT'S NAME

SURROGATE PARENT CONTACT LOG

Lee Laxdahl
STUDENT'S NAME

DATE	ACTION (CALL, VISIT, LETTER, ETC.) AND NAME AND TITLE OF PERSON CONTACTED	SUMMARY OF RESULTS	FOLLOW-UP NEEDED?
10/20/84	Checked out library books on mental retardation		
10/26/84	visited Lee's classes at Washington	review copy of Lee's records - he was last assessed in 1982 - he received O.T. in past but isn't now.	check out why O.T. was dropped - is it needed still?
			check out procedures to follow to have Lee assessed to see if he does need O.T.
		talked with Sally McKeever - She's concerned about: 1. No carryover in Lee's program from school to group home.	

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Bill Johnson
SURROGATE PARENT'S NAME

SURROGATE PARENT CONTACT LOG

Lee Laxdahl
STUDENT'S NAME

DATE	ACTION (CALL, VISIT, LETTER, ETC.) AND NAME AND TITLE OF PERSON CONTACTED	SUMMARY OF RESULTS	FOLLOW-UP NEEDED?
		2. She also thinks Lee needs more help with visual/motor coordination.	
		She seems glad to have someone looking after Lee	Look into possibility of taking Lee to the parade next month with kids in my park program - check with group home director to see if it's a good time to try this.
		Observed Lee in class - he's very friendly, tries hard to communicate - seems to get frustrated when others don't understand his speech - he has some problems in coordination with paper, pencil work	

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Bill Johnson
SURROGATE PARENT'S NAME

SURROGATE PARENT CONTACT LOG

Lee Laxdahl
STUDENT'S NAME

DATE	ACTION (CALL, VISIT, LETTER, ETC.) AND NAME AND TITLE OF PERSON CONTACTED	SUMMARY OF RESULTS	FOLLOW-UP NEEDED?
10/27/84	started filling out Lee's student profile sheet		
11/1	visited Lee at Hiawatha House	met staff, talked with Edith Swanson about what Lee likes to do there. Asked Edith about communication between school and home (limited)	
		Lee showed me his radio and a bird house he built last year.	Try to think of ways to improve communication between school and Hiawatha

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Bill Johnson
SURROGATE PARENT'S NAME

SURROGATE PARENT CONTACT LOG

Lee Laxdahl
STUDENT'S NAME

DATE	ACTION (CALL, VISIT, LETTER, ETC.) AND NAME AND TITLE OF PERSON CONTACTED	SUMMARY OF RESULTS	FOLLOW-UP NEEDED?
11/3/84	Called Dr. Landry, the doctor for Hiawatha House	He agreed I should write a letter requesting a reassessment for Lee that will look at Lee's motor coordination and O.T needs	Write letter to Dr. Smythe, Special Ed director
11/3/84	Wrote Dr. Smythe to request an O.T assessment		I think the first school meeting should include school staff and me. Also, check to see if Lee's caseworker can come. After 1st conference, Lee should be included in meetings - discuss this with school.
11/8/84	Joan Mays, an occupational therapist, called	The O.T assessment has been scheduled for 11/17/84	

November 3, 1984

Dr. Alice Smythe
Director of Special Education
Little Sioux Special Education Cooperative
123 School Boulevard
Amarillo, MN. 99999

Dear Dr. Smythe,

The purpose of this letter is to request an occupational therapy assessment for Lee Laxdahl, the child for whom I am a surrogate parent.

Lee was receiving occupational therapy when he attended Lincoln Public School three years ago. From reading his records, I feel that this related service was beneficial, but it was discontinued for no apparent reason. In talking with Lee's teachers and group home staff, it seems that there is still a need for Lee to improve his eye-hand coordination and self-care skills.

I have talked with Dr. Tom Landry, the doctor for residents of Hiawatha House, and he also feels that occupational therapy may be an important service for Lee. He has asked me to tell you to feel free to contact him if you have any questions.

If there is something further I need to do before the assessment can proceed, please contact me.

Sincerely,

Bill Johnson

Bill Johnson

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STUDENT PROFILE SHEET

Child's Name Lee Laxdahl Birthdate 7-8-69

School Washington Junior high Phone 345-6789 (school office)

Teacher Sally McKeever Grade Level Junior high-special education program 7-9 ungraded

1. What my child is interested in: Appears to have interest in putting things together (building tasks, using tools, etc.) - likes music - listens to lots of records, radio - likes to play with sets of drums at group home.

2. Things my child is ready to learn: Seems ready to learn how to take more responsibility for carrying out tasks, following directions well. Should take more responsibility for caring for and locating his belongings at group home and school materials and equipment in class (things get lost).

3. My child is best at: Activities involving large muscle coordination (bicycle, trampoline, etc.) - enjoys interaction with others his age and adults. He's very friendly and likes to be with others though he becomes frustrated when people can't understand some of the things he says.

4. My child needs the most help with: Communication skills - coordination - caring for his belongings, locating things he needs - use of leisure time - some behavior on school bus (i.e. understanding transportation safety) - interacting more with non-handicapped students.

5. Help my child has received in the past: Full-time special education program (reading, math, basic skills) - speech language services - occupational therapy (don't know how long he received it - it was terminated in 1981-) unclear about physical education - it was not written on IEP in past - special transportation to/from school.

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6. Problems with my child's current program: need to develop responsibilities for things that will be expected of him in future - remembering where he has to go and when, listening to directions and carrying them out, should be more carry over from school to group home (work on same skills) - no integration with non-handicapped children except in lunchroom - some integration should be planned & tried.

7. Possible alternatives and/or additions to my child's current program: Lee's verbal speech is understood only about 6% of the time - he should receive more help in speech/language or in procedures to use when not understood.

8. Services that my child needs: Lee should have some school services in the summer - last summer he spent almost all his time at group home with little to do - he achieved no growth in skills. He needs help with leisure time activities. Physical education - does he receive it? How often?

9. Special concerns I have about my child: Assessment needed in occupational therapy - communication skills - better coordination + communication between school and group home - he must learn to ask for directions, help when needed.

10. Questions I want to ask about my child: Can Lee's interest in music be explored? Perhaps he could attend some classes in music with non-handicapped students. What does the school have to offer in the future for vocational training

11. Suggestions I have about working with my child: School and group home should help Lee develop more independence for future and work on prevocational skills. Expect more of him concerning responsibilities, promptness, caring for self and belongings. Motivate him to carry out jobs successfully. Need to feel more success in what he's doing at school. Consistency in programming for his needs.

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LITTLE SIOUX SPECIAL EDUCATION COOPERATIVE
123 School Avenue
Amarillo, MN. 99999

NOTICE OF ANNUAL CASE REVIEW

This is to confirm our recent phone call to establish an annual case review meeting for your child Lee Randall.

The meeting will be held:

Date Dec. 2, 1984 Time 3:00 p.m.

Location Washington junior high

The purpose of this meeting is to determine if your child continues to need special education services and, if so, to review and revise his/her Individualized Education Plan.

The following people will be included in the meeting (Name/Title):

Dr. Alice Smythe, special education director
Sally McKeever, special education classroom teacher
Mike Fredin, speech/language clinician
Joan Mays, occupational therapist
Bill Johnson, surrogate parent

The following information/records/data will be discussed:

progress report from Sally McKeever
data on Lee's occupational therapy assessment results
progress report from Mike Fredin
information from Bill Johnson

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Please complete this page and return it by Nov. 26, 1984 to:

Dr. Alice Smythe
Director of Special Education
Little Sioux Special Education Cooperative
123 School Avenue
Amarillo, MN. 99999

1) ✓ I will attend the case conference committee meeting.

____ I will not attend the case conference committee meeting.

____ I cannot attend on this date and would like to reschedule the meeting.

2) ____ I want my child to attend the case conference committee meeting.

✓ I do not want my child to attend this case conference meeting. but want him included in future meetings.

3) The following are names of additional school personnel whom I would like to have attend:

I would like it if the music teacher and/or band instructor from the junior high program could attend.

4) I understand that I may bring additional people (other than school personnel) to the case conference committee meeting:

Tom Johnson, County caseworker
Edith Swanson, director of Hiawatha Center (Lee's group home.)

Bill Johnson
(Signature of surrogate parent)

11-24-84
(Date)

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A New IEP for Lee

STUDENT STAFFING SUMMARY and INDIVIDUALIZED EDUCATION PROGRAM

Meeting date 12-2-84
Was this a: ___ student staffing
___ annual review

STUDENT INFORMATION:

Name Lee Laxdahl Birthdate 7-8-69 Age 15

School Washington Junior high

Grade Level 7-9ungraded Teacher(s) Sally McKeever

Surrogate Parents Bill Johnson (phone) 331-1895 (home)

Address 321 Anderson St.

STUDENT STAFFING PARTICIPANTS: (record names)

Administrator Dr. Alice Smythe Psychologist ____

Surrogate Parents Bill Johnson

Regular and Special Education Teachers Sally McKeever
Harry Clovin, band instructor

Student (when appropriate) ____

Therapists/Clinicians Mike Fredin

Others Edith Swanson, group home director
Tom Johnson, County social worker

CASE CONFERENCE RECOMMENDATIONS

School where child will receive services Washington junior high

Type of placement required:

- ___ Level II (Regular education with consultation)
- ___ Level III (Regular education with special education part of the time)
- ___ Level IV (Special education services more than half the day)
- ✓ Level V (Special education program fulltime)
- ___ Level VI (Special education program fulltime and student is in a residential setting away from his/her home)
- ___ Homebound/hospitalized services

* Lee will be integrated in a regular education music class for one period each week - goal is social integration.

Special education instruction that will be given child: (Either regular or

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adapted physical education must be included.)

Type of Service	Who Will Give Service	Duration & Frequency of Service
Level V Basic skills	Sally McKeever	daily Dec. '84 through June '85
Speech/language services	Mike Freden	2/weekly in 10-min. sessions Dec. '84-June '85
Physical education w/level V classmates	Jack Miles	2/wkly Dec. '84 thru June '85 minimum of 1 full day
Recreational skill development	Harry Town (Sally McKeever assisted by Sally McKeever at school)	Dec. '84 through June '85
Self-help skill development	Edith Swanson at group home	daily Dec. '84 thru June '85
Summer school program	To be arranged by special education staff	3 hrs./day (morning) 6 wk session - summer '85

Related and Support Services Required:

TYPE OF SERVICE	Who will give service	DURATION and frequency of services
Transportation	special transportation to/from school	School bus driver + van	daily Dec. '84 thru June '85
Occupational Therapy	direct service 2/month for 30 min.	Joan Mays - consultation, guidance for classroom teacher and aide for daily practice Jan. '85 - June '85
Physical Therapy		
Counseling Services		
Audiology		
Psychological Services		
School Health Services		
Parent Counseling/Training		
Other		

Date/location scheduled for review of the IEP March '85 at school (review) program + discuss summer prgm. for Lee

Participation of student in regular education program(s) Regular education music class (7th grade) once a wk (social integration, music interest) trial period 1/85 - 3/85

Special materials needed

Communication between school and parents/surrogate parents (who will communicate, how, when) Sally McKeever will communicate at least once a month with Bill Johnson.

Dissenting opinions

I have reviewed my child's educational placement and: ✓ accept ___ do not accept the recommendations of the student staffing (IEP) team.

Bill Johnson 12-8-84
(signature of parent/surrogate parent)

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ASSESSMENT SUMMARY

The kinds of measures used during my child's assessment (Include a description of the name and title of professional who conducted each measure as well as what each measure was designed to discover.)

1. occupation therapy assessment
2. classroom teacher progress report
3. speech/language progress report
4. surrogate parent information
5.
6.

Present levels of educational performance:

1. **Academic (reading, math, etc.)**
He recognizes 7 colors, 5 shapes, and words. He can write his own name and read at approximately 1.5 grade level w/some support and supervision, recognizes numbers 1-20, can count to 20, can add + subtract using concrete objects
2. **Motor development**
Rides bicycle, climbs ladders, uses trampoline, runs well, skips, hops, throws balls
3. **Self-help skills**
able to select clothes; dress, feed, toilet himself
knows (recognizes) all items that belong to him
4. **Social skills and adaptive behavior**
see teacher's progress report - Sally Mckeever
5. **Speech and language development**
speech/language report - Mike Fredin
6. **Perceptual skills**
7. **Prevocational/vocational skills**
8. **Other**

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GOAL AREA: Speech / language

ANNUAL GOAL: Improve skills in oral communication (intelligibility, syntax) - increase use of asking directions, requesting help.

PERSON(S) RESPONSIBLE FOR IMPLEMENTING:
Miki Fredin, - Coordinate with Sally McKeever for follow through in classroom setting

SHORT TERM OBJECTIVES	EVALUATION PROCEDURES	CRITERIA FOR SUCCESS	DATE OF ACHIEVEMENT
① Alternate strategies will be taught to Lee to utilize when his speech is not understood by others. a) rephrasing what he has said if person cannot understand after 2 trials. b) reducing rate of speech to comprehension of listener	speech clinician will chart progress in choosing another word/rephrasing sentance when he is not understood initially - work with clinician for charting of skill - move to observation of Lee communicating with others - peers and in classroom setting	70% success in utilizing procedures when student is having difficulty communicating. # of times not understood # of times choosing another word or phrase and/or slowing speech rate. (chart ea. wk)	5/85
② Student will inform teacher (Fredin, McKeever) each time he has completed assigned tasks. Will ask for new assignment, ask for directions. Practice on words and phrases to use when needing assistance: work on sound production (blends) work on slowing rate of speech.	Obtain base line data on # of times Lee asks for assistance or directions - vs. sits idle not seeking help. (1 week period during 12/84). Chart steady progress 12/84 - 5/85	improve skills in asking for assistance 30% improvement charted for 2 consecutive weeks	5/85

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GOAL AREA: Prevocational skills

ANNUAL GOAL: Increase ability to carry out responsibilities

PERSON(S) RESPONSIBLE FOR IMPLEMENTING: Sally McKeever - assistance from band instructor, Harry Clovin, classroom aide and aide in school office

SHORT TERM OBJECTIVES	EVALUATION PROCEDURES	CRITERIA FOR SUCCESS	DATE OF ACHIEVEMENT
(1.) Given specific tasks in classroom + school office, Lee will follow instructions and complete tasks with more independence. tasks will include:			
Classroom duties - remember to water 6 plants on Mon. + Thurs. mornings pass out student papers each A.M.	Teacher observation will chart with pictures of tasks for specific days check off places for Lee after completing tasks	remembering to complete tasks, reporting at assigned time -	4/85 - 5/85
School duties - report to office each Wednesday afternoon at 1 P.M. act as messenger between office and classrooms.		80% of time over a 4 week period	3/85 - 4/85
(2) Given instructions by office aide, Betty Dot, Lee will assist in school office collating papers, stapling papers, stuffing envelopes for mailing. - 2 periods a week. Report on time to office	Observation by office aide - charting of progress for each task during specific time period (twice weekly)	80% accuracy in collating, stapling, + envelope stuffing less than 20% errors 90% achievement in reporting on time to school office.	5/85
(3) During one assigned period week, Lee will assist band instructor, Harry Clovin, with equipment maintenance in band room (following verbal instructions from band instructor).	recorded notes - chart each session band instructor will provide instructions each session - tasks completed tasks not completed - Problem areas noted	Report on time 90% achievement - 1 month carry out verbal instructions correctly 75% of time 1 month	5/85
(4) Given a collection of coins, Lee will recognize + select the proper amount he needs for lunch each day. Start with pictures of coins - match with real coins - fade out pictures	Teacher charting of daily progress	95% accuracy for 12 consecutive school days	4/85

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GOAL AREA: Self-help skills

ANNUAL GOAL: Improve ability to care for belongings

PERSON(S) RESPONSIBLE FOR IMPLEMENTING: Sally McKeever (school) + Edith Swanson (group home)

SHORT TERM OBJECTIVES	EVALUATION PROCEDURES	CRITERIA FOR SUCCESS	DATE OF ACHIEVEMENT
① With teacher's verbal instruction, Lee will put his books, materials, tools away in a designated place at the end of the work period.	Teacher observation charting of progress	95% of the time for 20 consecutive school days	3/85
② After achieving above objective, Lee will continue placing his books/materials in designated place at the end of each work period (no teacher assistance)	Teacher observation + check-off chart for Lee to use after each work period	85% of the time for 20 consecutive school days.	5/85-6/85
③ When Lee arrives at group home each afternoon he will place his school belongings and clothing in a designated place with verbal instruction from group home staff	charting of progress by group home staff	95% of the time for 20 consecutive days	3/85
④ When Lee arrives at group home each afternoon, he will place school materials and clothing in a designated place. (without staff instruction or assistance)	check-off chart on wall for Lee to use each day-observation by group home staff.	85% of time for 20 consec. future days	5/85-6/85

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A complete IEP would include goals and objectives for each educational service needed by the child.

The preceding three pages are examples of goals and objectives for only a few of the services that Lee will be receiving.

Whenever the school district sends parents a notice of an important proposal about the child's educational program (such as the IEP plan that Lee's surrogate parent has just received), a form is also enclosed that explains the parents' rights in accepting or rejecting the proposal.

The following is the kind of form that Lee's school district might send along with the IEP.

PROCEDURAL SAFEGUARDS AVAILABLE TO PARENTS OR GUARDIANS OF HANDICAPPED CHILDREN AND YOUTH

Attached is a notice which has proposed an action or denied your request for an assessment/reassessment or the provision of special education services. The notice includes a space for you to give your approval or disapproval. In making your decision about the school's notice, it is important that you are aware of and understand the following rights which are available to you. Please read them carefully and retain this copy for your future reference.

1. You may review and receive copies of all records or other written information in the school's possession regarding your son or daughter.

2. You may provide information to the school regarding the assessment/reassessment or the development of the individual education plan (IEP) regarding your child.

3. You may participate as a team member to determine your son or daughter's education program including the provision of special education services. You will receive written notice of the team meeting. All team meetings will be scheduled at a time and place that is mutually acceptable to school personnel and you.

4. You may request and receive interpretations of assessment or reassessment procedures and results during a private conference held with a knowledgeable school employee. The same rights exist concerning an interpretation of the IEP.

5. You may request that the team which interprets the assessment/reassessment data and/or develops the individual program plan involve additional staff or other persons including someone who is a member of the same minority or cultural background or who is knowledgeable concerning the racial, cultural, or handicapping differences of your son or daughter.

6. You may obtain an independent assessment at your own expense. You may contact the school and request where an independent assessment may be obtained.

7. You may request that an independent assessment be obtained at school district expense if you disagree with the assessment conducted by the school. However, the district may initiate a conciliation conference and a due process hearing to show that their assessment is appropriate. If the hearing decision is that their assessment is appropriate, you still have the right to an independent assessment but not at school district expense. Whenever an independent assessment is obtained, the criteria under which the assessment is obtained, including the location of the assessment and the qualifications of the examiner, must be the same as the criteria which the school district uses when it conducts an assessment. When a district denies a parent's request for an independent assessment at school district expense, the parent may request a conciliation conference or due process hearing to resolve the disagreement.

8. If this is the first time the school district has proposed to assess your child (initial assessment) or if this is the first time this district has proposed to place your child (initial placement) in a special education program, the district must have your written permission to proceed. If you do not provide written consent, the district will request that you attend a conciliation conference to address this matter.

If this is not the first assessment or first placement being proposed by this district, we will proceed with our proposal unless you object in writing within 10 days of receipt of this notice.

9. If you inform the district in writing that you do not agree with the proposed assessment or placement, you will be requested to attend a conciliation conference. Also, if this is the initial assessment or placement and you do not respond to this notice, the district will request you to attend a conciliation conference. This conference will be at a time and place which is mutually convenient.

10. If you do not wish to participate in a conciliation conference in an effort to resolve the disagreement, you do have the right to proceed directly to an impartial due process hearing and by-pass the informal conciliation conference. Even if you attend a conciliation conference, you always have the right to a due process hearing. The conciliation process cannot be used to deny you your right to a due process hearing.

11. You may be represented by legal counsel or another person of your choosing in preparation for and at the conciliation conferences or the impartial due process hearing.

12. The district will not change your son or daughter's educational program as long as you object to the proposed action in the manner prescribed in No. 8 and 9. Also, you may withdraw your consent at any time.

13. You may examine and receive copies of your son or daughter's school records before the hearing, including tests, assessments, reports or other information concerning the education assessment or reassessment upon which the proposed action may be based.

14. You may call your own witnesses and present evidence, including expert medical, psychological, and educational testimony and relevant records, tests, assessments, reports or other information.

15. You may request the attendance of any official or employee of the providing school district (if your child attends school in another district) or resident school district or any other person who may have evidence related to the proposed aciton.

16. You may cross-examine any employee of the school district(s) or other persons who present evidence at the hearing.

17. You may have your son or daughter attend any of the conferences or the hearing.

18. The hearing shall be closed to the public unless you request an open hearing.

19. You will obtain a record of the hearing including the written findings of fact and decision.

20. The following are low cost legal services available:

a. Legal Advocacy for Developmentally Disabled Persons in Minnesota
222 Grain Exchange Building
323 Fourth Avenue South
Minneapolis, MN. 55415
(612) 338-0968

b. Advocate for the Blind
1821 University Avenue
Room 389 South
St. Paul, MN. 55104
(612) 645-3920

c. Coalition for the Protection of Youth Rights
(Central Minnesota Legal Services)
1929 Chicago Avenue South
Minneapolis, MN. 55404
(612) 870-7604

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SECTION SIX: Appendix

Part A - Minnesota State Board of Education Rules

Part B - Resources for Parents of Handicapped Children

Part C - Suggested Books for Future Reading

Part D - An Excerpt from FERPA Regulations

A. Minnesota State Board of Education Rules

STANDARDS AND PROCEDURES

3525.0200 DEFINITIONS FOR SPECIAL EDUCATION.

Subpart 1. Scope. As used in parts 3525.0200 to 3525.4700, the terms defined in this part have the meanings given them.

Subp. 1a. Assessment. "Assessment" means an individual educational evaluation of a pupil's performance or development conducted in accordance with recognized professional standards and the provisions of parts 3525.2500 to 3525.2800.

Subp. 2. Days. "Days" means the days school is in session when used in parts 3525.1100 to 3525.3600. "Days" means calendar days when used in parts 3525.3700 to 3525.4700.

Subp. 3. [Repealed, 8 SR 596]

Subp. 4. [Repealed, 8 SR 596]

Subp. 5. [Repealed, 8 SR 596]

Subp. 6. [Repealed, 8 SR 596]

Subp. 6a. Individual education program plan or IEP. "Individual education program plan" or "IEP" means a written individualized educational plan developed for a pupil. It is based on an assessment of the pupil's performance utilizing licensed personnel, a determination of the pupil's needs in a team process, an identification of appropriate goals and objectives, a selection of teaching strategies designed to enhance learning, delivery of services in an environment which is conducive to learning, and periodic review and evaluation of the pupil's performance.

Subp. 7. [Repealed, 8 SR 596]

Subp. 7a. Initial formal assessment. "Initial formal assessment" means the first formal assessment of a pupil provided by the district proposing to conduct the assessment.

Subp. 8. [Repealed, 8 SR 596]

Subp. 8a. Initial placement. "Initial placement" means the first special education placement and provision of instruction and related services by the district proposing the placement.

Subp. 8b. Instruction. "Instruction" means the action or

practice of a teacher.

Subp. 9. [Repealed, 8 SR 596]

Subp. 9a. **Management aide or aide.** "Management aide" or "aide" means a person who assists in the provision of special education under the direct supervision of regular teachers, teacher, or related services staff. The primary responsibilities of an aide are to provide physical management and to implement pupil behavior management techniques as determined by the team staff. This person may also provide incidental follow-up instruction and training in conjunction with the primary responsibilities and under the direct supervision of a teacher.

Subp. 10. **Nondiscrimination.** "Nondiscrimination" means a requirement that districts shall:

A. comply with the provisions of Minnesota Statutes, chapter 363 and not discriminate in any manner in the full use of or benefit from any services rendered by an educational institution because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, or disability; and

B. provide procedures that ensure that, in accordance with recognized professional standards, testing and evaluation materials and procedures utilized for the purposes of identification, assessment, classification, educational program plan development, educational placement including special education services, program implementation, review and evaluation, notice and hearing are selected and administered so as not to be discriminatory including cultural discrimination. All such procedures and materials shall take into account the special limitations of handicapped persons and the racial or cultural differences presented by persons and must be justified on the basis of their usefulness in making educational program decisions which will serve the individual pupil.

Subp. 11. [Repealed, 8 SR 596]

Subp. 11a. **Parent.** "Parent" or "parents" means the mother, father, guardian, conservator, or surrogate parent for a

pupil under age 18. For a pupil over age 18, it means the pupil unless a guardian or conservator has been appointed, in which case it means the guardian or conservator. When the parents are separated or divorced, it means the parent who has the legal right, by court decree or agreement, to determine the pupil's education, even though the pupil may be living with the other parent.

Subp. 12. [Repealed, 8 SR 596]

Subp. 13. [Repealed, 8 SR 596]

Subp. 14. [Repealed, 8 SR 596]

Subp. 15. [Repealed, 8 SR 596]

Subp. 15a. **Providing district.** "Providing district" means a district with the responsibility of providing instruction and related services to a pupil.

Subp. 16. [Repealed, 8 SR 596]

Subp. 16a. **Pupil.** "Pupil" means a handicapped person eligible for special education according to Minnesota Statutes, sections 120.03 and 120.17. Persons who are pregnant or chemically dependent and do not have a handicapping condition are not handicapped.

Subp. 17. [Repealed, 8 SR 596]

Subp. 17a. **Recognized professional standards.** "Recognized professional standards" means reasonable principles and concepts accepted by acknowledged experts that bear a direct relationship to the particular needs of the pupil.

Subp. 18. [Repealed, 8 SR 596]

Subp. 18a. **Regular education program.** "Regular education program" means the normal early childhood, elementary, secondary, or vocational education offerings, including instruction, training, aids, and services in the classroom or other appropriate places.

Subp. 18b. **Related services.** "Related services" means any specially designed services not provided by regular education or special education instruction to meet the unique needs of a pupil to benefit from the educational program. This includes psychological services, social worker services, occupational

therapy, physical therapy, audiology, orientation and mobility training, health services, medical services for diagnostic purposes, music therapy, and other similar services.

Subp. 19. [Repealed, 8 SR 596]

Subp. 19a. Resident district. "Resident district" means the district in which the pupil's parent resides, if living, or the guardian, or the district designated by the commissioner as provided in Minnesota Statutes, section 120.17, subdivisions 6 and 8a. It does not mean the district in which a surrogate parent resides.

Subp. 20. [Repealed, 8 SR 596]

Subp. 20a. Special education. "Special education" means any specially designated instruction and related services or support services to meet the unique cognitive, affective, or psychomotor needs of a pupil as stated in the IEP.

Subp. 21. [Repealed, 8 SR 596]

Subp. 22. [Repealed, 8 SR 596]

Subp. 23. Support services. "Support services" means any specially designed services which assist in the delivery of instruction or related services to a pupil. This includes braillists, interpreter services, management aides, transportation, and other similar services.

Subp. 24. Teacher. "Teacher" means a person licensed according to parts 8700.5400 to 8700.5502, or successor rules, by the Board of Teaching to instruct pupils with specific handicapping conditions.

MS s 120.17 subd 3

8 SR 596

POLICIES

3525.0300 PROVISION OF FULL SERVICES.

All children and youth who are handicapped and who are eligible for special education services shall have access to free appropriate public education, as that term is defined by applicable law, suited to each child's individual needs including the special education appropriate to his or her development. All school districts shall provide for such

education suitable to students' individual needs regardless of the severity of the child's mental, physical, or emotional disability, or other impairment or handicap. The responsibility of the school district is not diminished by the availability of nonpublic schools or other services which may be located within the district.

MS s 120.17 subd 3

3525.0400 LEAST RESTRICTIVE ALTERNATIVE.

To the extent that there are no detrimental effects, children who are handicapped shall be educated with children who do not have handicaps and shall attend regular classes. A handicapped person shall be removed from a regular educational program only when the nature or severity of the handicap is such that education in a regular educational program cannot be accomplished satisfactorily. Furthermore, there must be an indication that the person will be better served outside of the regular program. The needs of the person shall determine the type and amount of services needed.

MS s 120.17 subd 3

3525.0500 [Repealed, 8 SR 596]

3525.0600 [Repealed, 8 SR 596]

3525.0700 PARENTAL INVOLVEMENT.

Parents of handicapped children have a right to be involved by the school district in the education decision-making process. Only by consistent and direct involvement of parents will the school receive sufficient input to design and implement an effective program for the handicapped student. Parents and schools are encouraged to cooperate in an open and objective manner, utilizing periodic conferences when possible so that formal hearings are necessary only when substantive disagreements exist between the parties.

MS s 120.17 subd 3

3525.0800 ACCOUNTABILITY FOR INSTRUCTION AND SERVICES.

As provided in Minnesota Statutes, section 120.17,

subdivision 2, the district of residence is responsible for maintaining an appropriate program for all eligible handicapped persons regardless of the method or location of instruction utilized. However, if the handicapped person lives outside of his district of residence under the provisions of Minnesota Statutes, section 120.17, subdivisions 6 and 7, the district where the child lives is responsible for providing an appropriate program for the child as set forth in state statutes and parts 3525.0200 to 3525.4700 including the notice and hearing provisions. In such cases the district of residence is responsible for assuming the cost of the educational program. If the districts do not agree on the tuition rate, either district may appeal to the commissioner as provided in Minnesota Statutes, section 120.17, subdivision 4. The district shall not purchase special educational services for a child from a public or private agency when such service is available or can be made available and can be more appropriately provided as the least restrictive alternative within the district. Whenever it is appropriate for a district to purchase special education service for children who are handicapped and who reside in the district, it continues to be the responsibility of the school district, consistent with the provisions of Minnesota Statutes and parts 3525.0200 to 3525.4700, to assure and ascertain that such children and youth receive the education and related services and rights to which they are entitled.

MS s 120.17 subd 3

3525.0900 [Repealed, 8 SR 596]

3525.1000 [Repealed, 8 SR 596]

APPLICATIONS

3525.1100 DISTRICT SPECIAL EDUCATION PLAN.

Each district shall submit to the commissioner the district's plan for providing instruction and related services for all pupils as required by Minnesota Statutes, section 120.17. The plan may represent the plan of a single district or a plan for all of the member districts of a formal special

education cooperative. The plan shall be considered as part of the annual school district application for program review, but will not be required to be resubmitted annually. If a cooperative changes administrative organization, it shall submit a revised plan. The new plan must be submitted prior to the beginning of the next school year. The plan shall include descriptions of the district's:

A. study procedures for the identification and assessment of pupils;

B. method of providing the instruction and related services for the identified pupils; and

C. administration and management plan to assure effective and efficient results of items A and B.

On or before January 1, 1978, and as soon as possible after receiving revised plans, the commissioner shall approve or implement appropriate procedures for modification of the district plan. The commissioner may grant the district a reasonable period of time to make necessary modifications of the plan if the commissioner has satisfactory assurances of compliance with standards for the education of pupils.

MS s 120.17 subd 3

8 SR 596

3525.1200 ANNUAL APPLICATION FOR PROGRAMS AND BUDGET.

Subpart 1. Regular school term. Districts shall submit to the commissioner an annual application for the regular school term for program and budget approval necessary to determine the special education aids during the next school year. The commissioner shall approve, disapprove, or modify each application and notify each applying district of the action and the estimated level of education aid to be paid when the first aid payment is made.

Subp. 2. Summer school term. Districts shall submit separate applications for program and budget approval for summer school. The commissioner shall approve, disapprove, or modify each application and notify the district of the action and the estimated level of special education aid within 45 days.

Subp. 3. **Amended budget application.** Districts which desire to apply for additional state aid because program and budget modifications are necessary to meet changing needs of pupils shall make an amended application.

Subp. 4. **District compliance.** Districts shall assure that they are in compliance with state and federal statutes and rules relating to the education of pupils.

MS s 120.17 subd 3

8 SR 596

3525.1300 [Repealed, 8 SR 596]

3525.1310 STATE AID FOR SPECIAL EDUCATION PERSONNEL.

Salaries for essential personnel who are teachers, related services and support services staff members, directors, and supervisors are reimbursable for the following activities:

A. child find and pupil identification;

B. necessary short-term activities to determine whether referrals for assessments shall be made;

C. assessment and IEP planning for individual pupils;

D. instruction or related and support services to pupils who have an IEP;

E. necessary follow-up activities after termination from special education;

F. parental involvement and due process;

G. personnel development;

H. special education curriculum development;

I. special education program evaluation;

J. supervision and administration of the total special education system;

K. school psychological services and school social worker services provided alone or in conjunction with the instructional program;

L. other related services provided in conjunction with the instructional program.

MS s 120.17 subd 3

8 SR 596

3525.1320 EXPERIMENTAL PROPOSAL.

Subpart 1. General requirements. The State Board of Education shall approve or disapprove a district's experimental proposal for exemption from its rules. No exemption shall be given from federal regulations, Minnesota Statutes, part 3525.1500, subpart 1, and part 3525.2350, subpart 2. A proposal shall be designed to accomplish at least one of the following:

A. improved instructional quality;

B. increase cost effectiveness; or

C. make better use of community resources or available technology.

Subp. 2. Proposal requirements. When a district applies for exemption it shall submit a proposal which sets forth:

A. the proposal's goals and objectives;

B. the method by which the proposal will improve effectiveness and efficiency;

C. annual review procedures for up to three years;

D. rules from which it seeks exemption;

E. evidence that the district staff and parents, who would be affected, participated in the development and will participate in the annual review of the proposal, and that the proposal has the approval of the district school board;

F. evidence that the parents whose children would be involved will be fully informed at the team meeting and will have the opportunity to approve or disapprove placement in the experimental program; and

G. the annual evaluation procedures to be used to demonstrate attainment of the proposal goals and objectives, and the effectiveness of the proposal.

Subp. 3. Three-year review. The state board shall approve, disapprove, or modify continuation of the experimental proposal after three years.

MS s 120.17 subd 3

8 SR 596

FACILITIES AND STAFF

3525.1400 FACILITIES.

Classrooms and other facilities in which pupils receive instruction, related services, and support services shall: be accessible as defined in Code of Federal Regulations, title 34, section 104; be essentially equivalent to the regular education program; provide an atmosphere that is conducive to learning; and meet the pupils' special physical, sensory, and emotional needs.

The necessary special equipment and instructional materials shall be supplied to provide instruction, related services, and support services.

MS s 120.17 subd 3

8 SR 596

3525.1500 STAFF.

Subpart 1. Teachers. Every teacher shall hold a license appropriate to the handicapping condition of the pupil taught except as designated in part 3525.2350.

Subp. 2. Directors. Every director and assistant director shall hold an appropriate supervisory license for general special education or supervisory license for one or more program areas.

Subp. 3. Other supervisory personnel. Every supervisor shall hold either an appropriate supervisory license for one or more program areas coordinated or supervised, or an appropriate license for general special education supervision.

Subp. 4. Related services staff. Every related services staff member shall hold an appropriate license issued by the Board of Teaching or the State Board of Education. When such license is not available, related services staff shall meet recognized professional standards which shall be documented by the district.

MS s 120.17 subd 3

8 SR 596

1325.1510 PERSONNEL VARIANCES.

A district may apply to the commissioner of education for

and the commissioner shall grant a variance from part 3525.1500, subparts 1 to 3 with regard to its employees for one year or less when:

A. the district has made documented attempts to employ an appropriately licensed person and none are available; and

B. the person who will be employed holds any license issued by the Board of Teaching or the State Board of Education.

MS s 120.17 subd 3

8 SR 596

3525.1550 CONTRACTED SERVICES.

When contracting for assessments, instruction, or related services, a district shall contract with personnel who hold licenses issued by the Board of Teaching or State Board of Education. If either board does not issue a license for a necessary related service, the district shall contract with personnel who are members in good standing of professional organizations which regulate the conduct of its members and set standards for that profession.

MS s 120.17 subd 3

8 SR 596

3525.1600 STAFF FOR SPECIAL AND VOCATIONAL EDUCATION.

Staff responsible for vocational training of handicapped students shall meet the following criteria if the program is to qualify for special education approval:

A. Coordinator of special needs:

(1) Licensure in special education.

(2) Licensed as a coordinator of special needs in vocational education.

B. Support service manager:

(1) Licensure in any special education disability area.

(2) Licensed as a support service manager in vocational education.

C. Vocational instructor of special needs students:

(1) Licensure in the appropriate disability area of special education or have a plan for working toward licensure.

(2) Licensed as a vocational instructor of special needs students in vocational education.

D. Teacher/coordinator of work experience:

(1) A special education license appropriate for the type of handicapped students being taught.

(2) Licensed as an instructor/coordinator for work experience in vocational education.

E. Teacher/coordinator of vocational education work experience:

(1) Must be coordinated with a special education director or coordinator/lead teacher licensed for the type of handicapped students being taught.

(2) Must be working cooperatively with a special education licensed teacher who is responsible for the nonvocational instruction.

(3) Licensed as an instructor/coordinator for work experience in vocational education.

F. Vocational evaluator:

(1) Licensed as a vocational evaluator in vocational education.

(2) Working cooperatively with special education licensed personnel to insure that special consideration is related to the students handicapped condition are included in the evaluation and program plan.

G. Vocational technical tutor:

(1) Licensed as a technical tutor in vocational education.

(2) Working cooperatively with a special education licensed teacher who is responsible for the nonvocational academic area of instruction.

MS s 120.17 subd 3

3525.1700 STAFF TO STUDENT RATIOS.

Subpart 1. Ratio in level 5 or 6 of the continuum of placement model. When persons are in need of special education

services in level 5 or 6 of the "Continuum of Placement" model where the primary placement is in a special education program such as a full-time class, special station, special school, or residential school, the staff to student ratio shall not exceed:

A. one teacher for each eight handicapped persons for all categories except as provided in item B;

B. one teacher for six handicapped persons who are autistic or who are deaf/blind providing that two management aides are employed to assist the teacher.

Subp. 2. **Ratio in level 4 of the continuum placement model.** When persons are in need of special education services in level 4 of the "Continuum of Placement" model where the primary placement is in a special education program such as a resource room or part-time special class the staff to student ratio shall not exceed:

A. one teacher for every 15 handicapped persons for all categories except as provided in item B;

B. one teacher for every eight handicapped persons who are trainable mentally retarded or visually impaired.

Subp. 3. **Ratio in level 3 of the continuum placement model.** When persons are in need of special education services in level 3 of the "Continuum of Placement" model where the primary placement is in a regular education program, such as a resource room or special class, the staff to student ratio shall not exceed:

A. One teacher for every 15 persons for all categories except as provided in item B.

Each person must receive special education service for a minimum of one hour per day. When the needs of the student warrants such action, persons may receive less than one hour per day during the initial or phase out stages.

B. One teacher for every 40 persons who are speech and/or language impaired.

Subp. 4. **Ratio in level 1 or 2 of the continuum of placement model.** When persons are in need of special education services in level 1 or 2 of the "Continuum of Placement" model

where the student is full time in a regular education program and the special education teacher provides consultation and indirect service to the regular classroom teacher and/or assessment, monitoring or follow-up of the student, the staff to student ratio shall not exceed:

A. one teacher for every 30 persons who are handicapped except as provided in item B;

B. one teacher for every 60 persons who are speech impaired.

Subp. 5. **Providing more than one level of service.** Whenever a professional is serving children representing a range of severity of problems, is providing more than one level of service, or is providing service at more than one site, the staff to student ratios shall be adjusted accordingly.

Subp. 6. **Ratios for special and vocational programs.** When persons are receiving services from vocational staff involved in "special and vocational" programs except as provided in part 3525.1600, item D, the staff to student ratios of the "Continuum of Placement" model do not apply to that staff.

MS s 120.17 subd 3

8 SR 596

NOTE: Part 3525.1700 is repealed effective for the school year beginning in 1984.

3525.1800 [Repealed, 8 SR 596]

3525.1900 [Repealed, 8 SR 596]

3525.2000 [Repealed, 8 SR 596]

3525.2100 [Repealed, 8 SR 596]

3525.2200 [Repealed, 8 SR 596]

3525.2300 SCHOOL DAY.

Deviations from the normal school day for any type of handicapped children shall be approved by the commissioner of education.

MS s 120.17 subd 3

TREATMENT PROGRAMS AND LEVELS OF SERVICE

3525.2320 PUPILS PLACED FOR CARE AND TREATMENT.

Subpart 1. **Handicapped pupil placement; when district services required.** A district must provide regular education, instruction, and related services in a facility or home to a pupil placed there for care and treatment. The services must be provided to a pupil who is:

A. prevented from attending the usual school site for 15 consecutive days; or

B. other health-impaired and predicted by the team to be absent from the usual school site for 15 intermittent days.

The services must be provided as required by the pupil's IEP, and to the extent that treatment considerations allow the pupil to participate. The services also must be provided for each day the pupil would otherwise attend the usual school site.

Subp. 2. **Handicapped pupil placement; minimum hours of service required.** The team must predict how long the pupil will be restricted because of treatment from leaving the facility or home on a daily basis. If the prediction is for a restricted period of more than 175 days or its equivalent, exclusive of summer school, an average of at least three hours of services must be provided. If the predicted restricted period is 175 days, or its equivalent, exclusive of summer school, or shorter, an average of at least one hour of services must be provided.

Subp. 3. **Handicapped pupil; consideration of school site placement.** If the team concludes a pupil can benefit from an average of more than three hours of services, it must consider placement at a school site.

Subp. 4. **Handicapped pupil placement; due process required.** The district shall comply with the due process procedures of parts 3525.2500 to 3525.4700.

Subp. 5. **Handicapped pupil placement; notice; team meeting.** The placing agency or the providing district shall hold a team meeting as soon as possible after a pupil has been placed for care and treatment. At least the following persons shall receive written notice to attend: the person or agency

placing the pupil, the resident district, the appropriate teachers and related services staff from the providing district, the parents, and, when appropriate, the pupil. This team meeting may be held in conjunction with a meeting called by the placing agency according to Minnesota Statutes, section 124.2133, subdivision 4.

Subp. 6. **Handicapped pupil placement; IEP required.** The IEP developed by the team shall include the provisions of part 3525.2900, the location of the instruction and related services, the projected duration of the instruction and related services, and provisions for coordinating the care and treatment and the instruction and related services.

Subp. 7. **Handicapped pupil placement; notice of anticipated return.** When possible, a notice of discharge from the facility and anticipated return to the resident district shall be given by the providing district to the resident district.

Subp. 8. **Handicapped pupil placement; aid for special education only.** When regular education, instruction, and related services are provided, only the special education portion shall be reimbursed with special education aid. When placement is made by a noneducational agency, the cost of care and treatment for which a child is placed shall not be reimbursed with special education aid, nor is such expense assessable against the resident district.

Subp. 9. **Nonhandicapped pupil placement.** Nonhandicapped pupils who are anticipated to be absent 15 consecutive or intermittent days or more and who are suspected to have a handicapping condition shall receive an assessment.

MS s 120.17 subd 3

8 SR 596

3525.2330 EARLY CHILDHOOD PROGRAM ALTERNATIVES.

Subpart 1. **Instruction and related services required.** If a district provides permissive special education to pupils under four years old, the pupils shall be provided instruction and related services in one or more early childhood program

alternatives. If pupils are four years old but less than seven years old on September 1 of any year, the district shall provide services in one or more early childhood program alternatives or in one or more school-age levels of service in part 3525.2340, subpart 2.

Subp. 2. **Program alternatives.** The following are early childhood program alternatives:

A. A consultation and indirect services program includes ongoing progress review, cooperative planning, demonstration teaching, modification and adaptation of the curriculum, supportive materials, and equipment. The services are provided to teachers, related services staff, support staff, parents, and public and nonpublic agencies to the extent that the services are related to the pupil's special education.

B. In a center-based program, a pupil is enrolled in a district-operated center and receives instruction and related services at the center.

C. In a home-based program, a pupil receives special education in the home.

Subp. 3. **Case loads for early childhood program alternatives.** The following table sets forth the maximum number of pupils that may be assigned to a teacher's case load for the early childhood program alternatives. "Case load" means the number of pupils taught.

Consultation and indirect services program	24
Center-based program	
Deaf/blind, autistic, or severely multiply handicapped	
One class, with one aide	4
One class, with two aides	6
More than one class, with one aide	8
More than one class, with two aides	12
All other disabilities	
One class, with one aide	8
More than one class, with one aide	16
Home-based program	12

Subp. 4. **Early childhood teams.** A district may assign one full-time teacher, one full-time related services staff member, and one full-time aide as a team per class in an early childhood center-based program. Other related and support services shall also be provided as appropriate. The district may assign for

one class not more than an average of eight pupils per teacher and related services staff nor more than 16 pupils to an individual team.

MS s 120.17 subd 3

8 SR 596

NOTE: Part 3525.2330 is effective for the school year beginning in 1984.

3525.2340 SCHOOL-AGE LEVELS OF SERVICE.

Subpart 1. **Instruction and related services required.** If a pupil is school-age and is not provided instruction and related services in an early childhood program alternative, the pupil shall be provided instruction and related services in one or more levels of service.

Subp. 2. **Levels of service.** The following are levels of service:

A. In level 1 a nonhandicapped pupil is placed in a regular classroom and does not receive special education, or is not enrolled in school. This level includes assessment services, monitoring, observation, and follow-up.

B. In level 2 a pupil is placed in a regular classroom. Instruction and related services are provided indirectly through the regular teacher, teachers, parents, or other persons who have direct contact with the pupil. The consultation and indirect services include ongoing progress review; cooperative planning; demonstration teaching; modification and adaptation of the curriculum, supportive materials, and equipment; and direct contact with the pupil for monitoring, observation, and follow-up.

C. In level 3 a pupil receives direct instruction from a teacher, or related services from a related services staff member for less than one-half of the day. Consultation and indirect services are included.

D. In level 4 a pupil receives direct instruction from a teacher for one-half day to less than full time. Consultation and indirect services are included.

E. In level 5 a pupil receives full-time direct

instruction from a teacher within a district building, day school, or special station or facility. Integrated activities solely for socialization or enrichment, and related services are excluded when determining full time. Consultation and indirect services are included.

F. In level 6 a pupil is placed in a residential facility and receives direct instruction from a teacher. Consultation and indirect services are included.

Subp. 3. **Case loads for school-age levels of service.** The following table sets forth by levels of service the maximum number of school-age pupils that may be assigned to a teacher. "Case load" means the number of pupils taught.

Level 2	
Speech and language handicapped and developmental adaptive physical education	60
All other disabilities	30
Level 3	
Speech and language handicapped and developmental adaptive physical education	40
All other disabilities	18
Level 4	
Deaf/blind, autistic, or severely multiply handicapped	3
With one aide	6
Mildly mentally handicapped or specific learning disabled	12
With one aide	15
All other disabilities	8
With one aide	10
With two aides	12
Levels 5 and 6	
Deaf/blind, autistic, or severely multiply handicapped	
With one aide	4
With two aides	6
All other disabilities	
With one aide	8

MS s 120.17 subd 3

8 SR 596

NOTE: Part 3525.2340 is effective for the school year beginning in 1984.

3525.2350 MULTIDISABILITY TEAM TEACHING.

Subpart 1. **Team staff.** A district may assign one or more full-time teachers and up to an equal number of full-time related services staff as a team to provide instruction and related services to school-age pupils. Other related and support services shall also be provided as appropriate.

Subp. 2. **License requirement.** There must be a teacher on the team who is licensed in the disability area of each pupil served by the team.

Subp. 3. **Team member responsibility.** The team member licensed in a pupil's disability shall be responsible for that pupil's reassessment, IEP development and coordination, periodic and annual reviews, and ongoing consultation and indirect services as defined in part 3525.2340, subpart 2, item B, to the teacher providing instruction. The frequency and progress documentation of the specific consultation and indirect services shall be included in the pupil's IEP.

Subp. 4. **Implementation.** Pupils may receive instruction and related services from any or all of the team members with appropriate skills. The instruction and related services provided by each team member shall be included in the IEP. Team teaching may be implemented in one or more levels of service.

Subp. 5. **Case loads.** The total case load assigned to the team shall not exceed the case loads at the appropriate level of service set forth in part 3525.2340, subpart 3, times the full-time teachers and related services staff members assigned to the team. In counting the total case load for the team, case loads for speech and language handicapped and developmental adaptive physical education shall be excluded. An aide or aides shall be a part of the team when designated in part 3525.2340, subpart 5, but shall not be counted when determining case loads for related services staff members.

MS s 120.17 subd 3

8 SR 596

3525.2360 SINGLE DISABILITY CASE MANAGEMENT SERVICES.

Subpart 1. **Services included.** Case management may include: initial screening and assessment; development, coordination, and implementation of the individual IEP; compliance with procedural requirements; communication coordination among home, regular, and special education programs; placement facilitation; and coordination and scheduling of team meetings, periodic reviews, and follow-up

reviews. It does not include direct instruction to pupils.

Subp. 2. **Teacher assignment.** A district may assign a teacher to perform case management for school-age pupils who are in levels 3, 4, 5, and 6 services and who all have the same disability.

Subp. 3. **Team assignment.** A district may assign one case management teacher and up to five teachers as a team. All teachers shall be licensed in the same disability.

Subp. 4. **Case load.** The total case load assigned to the team shall not exceed the case loads at the appropriate level of service set forth in part 3525.2340, subpart 3, times the full-time teachers assigned to the team.

MS s 120.17 subd 3

8 SR 596

3525.2370 PUPIL PERFORMANCE PLAN.

A district shall be exempted from the case loads for levels 2, 3, and 4 services when a pupil performance plan is established and approved by the State Board of Education or its designee. The plan must contain all of the following:

A. development of IEP's for all pupils in levels 2, 3, and 4 based on district-wide performance expectations for all handicapped and nonhandicapped pupils;

B. implementation of a system to measure ongoing pupil performance with individual pupil performance being reviewed at least monthly; and

C. criteria for the modification of instruction, related services, and support services to meet the changing pupil needs indicated in the pupil performance measurement system.

MS s 120.17 subd 3

8 SR 596

3525.2380 CONSIDERATIONS WHEN DETERMINING RATIOS.

Subpart 1. **Variances.** The district may apply to the State Board of Education or its designee for a variance from the case loads in parts 3525.2330, 3525.2340, and 3525.2360. The state

board or its designee shall grant a variance for less than 90 days when it is demonstrated that unanticipated special education enrollment increases have occurred.

Subp. 2. **Method of counting pupils.** For the purposes of the case loads in parts 3525.2330, 3525.2340, and 3525.2360, each pupil receiving instruction or level 2 services shall be counted as one pupil in the teacher's case load.

Subp. 3. **Reduction of ratios.** The district shall reduce the teacher to pupil case loads to the extent necessary, to ensure the provision of services delineated in each pupil's IEP, if a teacher;

A. is assigned to more than one early childhood program alternative;

B. is assigned to pupils in more than one level of service;

C. is serving pupils representing a significant range of severity of problems; or

D. is providing instruction at more than one building.

MS s 120.17 subd 3

8 SR 596

3525.2400 [Repealed, 8 SR 596]

SUPERVISION

3525.2405 DIRECTORS.

Subpart 1. **Director requirement.** The school board in every district shall employ, either singly or cooperatively, a director of special education to be responsible for program development, coordination, and evaluation; in-service training; and general special education supervision and administration in the district's total special education system. Cooperative employment of a director may be through a host district, joint powers agreement, or an educational cooperative service unit.

Subp. 2. **Reimbursement for full-time director.** Conditions for special education reimbursement of one full-time director of special education include:

A. enrollment of 5,000 or more in public and

nonpublic schools within one district;

B. enrollment of 4,000 or more in public and nonpublic schools in a group of two or more districts cooperating to provide special education;

C. eight or more districts cooperating to provide special education through a host district, joint powers agreement, or educational cooperative service unit; or

D. districts numbered 287, 916, 917, or other similarly legislated multidistricts.

Subp. 3. **Reimbursement for part-time director.** Conditions for special education reimbursement of a part-time director of special education include an enrollment of 2,000 in public and nonpublic schools within a district or group of districts cooperating to provide special education or any cooperative having between five and seven districts cooperating to provide special education through a host district, joint powers agreement, or educational cooperative service unit. The maximum reimbursement shall equal the ratio of the actual enrollment to 5,000 within a district or 4,000 in a group of cooperating districts, as applicable, but not less than one-half. A part-time director must be assigned duties other than direct instruction for unreimbursed time.

Subp. 4. **Base years for reimbursement.** Reimbursement for the 1984-1985 through 1986-1987 school years shall be based on the 1982-1983 enrollment as reported to the State Department of Education. The enrollment year, as the basis for reimbursement, shall be changed every fourth year. When a district or cooperative has an increase or decrease in enrollment of ten percent or more, the district or cooperative shall have its reimbursement recalculated based on the actual enrollment for that year. The district must notify the State Department of Education of the increase by July 1 prior to the school year for which the adjustment is sought.

MS s 120.17 subd 3

8 SR 596

NOTE: Part 3525.2405 is effective for the school year

beginning in 1984.

3525.2410 ASSISTANT DIRECTORS.

Districts which employ full-time directors may employ and receive reimbursement for assistant directors of special education to assist in program supervision, development, coordination, and evaluation; and inservice training in the district's total special education system.

MS s 120.17 subd 3

8 SR 596

NOTE: Part 3525.2410 is effective for the school year beginning in 1984.

3525.2415 OTHER SUPERVISORY PERSONNEL.

Districts may employ and receive reimbursement for supervisors to coordinate or supervise program development, evaluation, and implementation; and inservice training.

MS s 120.17 subd 3

8 SR 596

NOTE: Part 3525.2415 is effective for the school year beginning in 1984.

3525.2420 VARIANCE.

A district may apply to the commissioner of education for a variance from the mandatory employment of a director and conditions for reimbursements. The commissioner shall grant a variance from part 3525.2390 when:

A. the growth patterns of a district or cooperative demonstrate that the public and nonpublic school enrollment will increase over the minimum in the next two years;

B. when districts cannot efficiently cooperate due to geographical isolation; or

C. the variance will result in a decrease in combined state and local costs and better delivery of instruction and related services to pupils.

MS s 120.17 subd 3

8 SR 596

NOTE: Part 3525.2420 is effective for the school year

beginning in 1984.

SURROGATE PARENTS

3525.2430 DEFINITION.

A surrogate parent is a person appointed by the providing district to ensure, by intervening on behalf of a pupil, that the rights of the pupil to a free and appropriate education are protected. The surrogate parent shall not be a person who receives public funds to care for the child. However, a foster parent may serve as a surrogate parent if appointed and if no conflict of interest exists.

MS s 120.17 subd 3

8 SR 596

3525.2435 EFFORT TO LOCATE PARENT.

Reasonable efforts shall be made to locate the parent. These may be made through documented phone calls, letters, certified letters with return receipts, and visits to the parent's last known address.

MS s 120.17 subd 3

8 SR 596

3525.2440 SURROGATE PARENT APPOINTMENT.

The district shall appoint the surrogate parent when:

A. the parent, guardian, or conservator is unknown or unavailable;

B. parental rights have been terminated;

C. the pupil has reached the age of majority, continues to be eligible for public education, and is not represented by a parent; or

D. the parent requests in writing the appointment of a surrogate parent. The request may be revoked in writing at any time.

MS s 120.17 subd 3

8 SR 596

3525.2445 CONSULTATION WITH COUNTY WELFARE.

The district shall consult the county welfare office before

appointing the surrogate parent when a pupil is the ward of the commissioner of public welfare.

MS s 120.17 subd 3

8 SR 596

3525.2450 REMOVAL OF SURROGATE PARENT.

A surrogate parent may be removed by majority vote of the school board. The surrogate parent must be notified of the time and place of the meeting at which a vote is to be taken and of the reasons for the proposed removal. The surrogate parent shall be given the opportunity to be heard. Removal may be for any of the following reasons:

A. failure to perform the duties required in the team meeting and IEP process and those cited in Code of Federal Regulations, title 34, section 300, a federal regulation to implement part B of the Education of the Handicapped Act;

B. conflict of interest as referenced in Code of Federal Regulations, title 34, section 300.514 (c)(2);

C. actions that threaten the well-being of the assigned pupil;

D. failure to appear to represent the pupil; or

E. change in eligibility for special education.

MS s 120.17 subd 3

8 SR 596

3525.2455 SURROGATE PARENT KNOWLEDGE AND SKILLS.

The district shall either make the information and training available to the surrogate parent or appoint a surrogate parent who has all of the following knowledge and skills:

A. state and federal requirements;

B. district structure and procedures;

C. nature of the pupil's disability and needs; and

D. an ability to effectively advocate an appropriate educational program for the pupil.

MS s 120.17 subd 3

8 SR 596

STUDENT DISCIPLINARY PROCEEDINGS

3525.2470 SUSPENSION, EXCLUSION, AND EXPULSION.

Subpart 1. **Pupil Fair Dismissal Act.** The Pupil Fair Dismissal Act shall apply to all pupils.

Subp. 2. **Team meeting required.** A team meeting shall be held prior to exclusion or expulsion of a pupil. Within five school days of a suspension, a team meeting shall occur. The team shall:

A. determine whether the misconduct is related to the handicapping condition;

B. review any assessments and determine the need for further assessment; and

C. review the IEP and amend the goals and objectives or develop an alternative IEP program.

Subp. 3. **Exclusion and expulsion.** A pupil may be placed, through a team meeting and the IEP, in a more restrictive alternative but shall not be excluded or expelled when the misconduct is related to the pupil's handicapping condition. When it is determined in a team meeting or a Pupil Fair Dismissal Act proceeding that a pupil's misconduct is related to the pupil's handicapping condition, then the assessment, IEP, and least restrictive alternative shall be reviewed according to the provisions of parts 3525.0200 to 3525.4700.

MS s 120.17 subd 3

8 SR 596

ASSESSMENT, NOTICE, AND HEARING

3525.2500 IDENTIFICATION OF HANDICAPPED CHILDREN.

School districts shall develop systems for locating all children residing within their jurisdiction who may be handicapped. Those systems shall be designed to identify preschool age handicapped children, handicapped persons attending school, and handicapped persons of school age who are not attending any school.

The district's identification system shall be developed in accordance with the requirement of nondiscrimination.

MS s 120.17 subd 3

3525.2600 FORMAL EDUCATIONAL ASSESSMENT.

Subpart 1. **Assessment.** An assessment:

A. must be conducted when because of a person's performance in the present educational placement or presenting handicapping conditions, he or she is thought by the school district to be in need of possible initiation or change in the student's educational placement or program or special education services as set forth in part 3525.2900, subpart 5 which will provide an educational program, including special education services appropriately suited to the person's needs;

B. must be conducted at least every three years as required by part 3525.3100;

C. may be conducted if the parent requests.

Subp. 2. **Function of the assessment.** The assessment must reflect the person's current level of performance and shall:

A. Be appropriate to the presenting problem and may include observation, evaluation, and testing of the persons intellectual, academic, verbal, emotional, adaptive behavior, sensory, physical, and social development.

B. Include a review of the person's learning environment and learning modes. When the team determines it to be necessary because of racial, cultural, or other differences presented by the person or due to the nature of the student's presenting handicapping condition they shall make reasonable efforts to obtain information from the parents relating to the student's functioning in his or her total environment.

C. Be provided and administered in the person's primary language or mode of communication unless it clearly is not feasible to do so.

D. Be performed in accordance with recognized professional standards which include recognition or accommodation for persons whose differences or conditions cause standardized instruments to be invalid and otherwise in accordance with the requirements of nondiscrimination.

MS s 120.17 subd 3

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3525.2700 CONDUCT PRIOR TO THE ASSESSMENT.

Prior to conducting an assessment the district shall:

A. Review the screening, referral, or other data about the person and select licensed special education personnel and others as appropriate to conduct the assessment.

B. Include on the assessment team licensed special education personnel and others who may have the responsibility for implementing the educational program for the person.

C. Conduct the educational assessment preferably at the school which the person attends. When the district determines that the assessment or a portion of the assessment cannot be performed utilizing the personnel resources of the district, the district shall make arrangements elsewhere for that portion of the assessment and shall assume all costs for such assessment.

D. Conduct the assessment within a reasonable period of time not to exceed 30 days from the date the district receives parental permission to conduct the assessment or the expiration of the ten day parental response time in cases other than initial assessment, unless a conciliation conference or hearing is requested.

MS s 120.17 subd 3

3525.2800 NOTICE BEFORE ASSESSMENT.

Notice before assessment:

A. Must be provided in accordance with the provisions of parts 3525.3200 to 3525.3500 prior to conducting a formal educational assessment or reassessment or when the district receives a parent's written request to conduct a formal educational assessment or reassessment. In cases where a district receives a parent's written request to conduct a formal assessment or reassessment, the district shall serve notice of its decision within ten days of their receipt of the written request.

B. Is not required for actions which are components of the district's identification system including large group

screening, individual student observation within the regular classroom, informal inventories, and consultation between regular and special education personnel.

MS s 120.17 subd 3

3525.2900 DEVELOPMENT AND CONTENT OF THE INDIVIDUAL EDUCATION PROGRAM PLAN.

Subpart 1. **Team and program needs determination.** Following the assessment, in order to determine if the person is in need of special education services, the district shall:

A. designate a team of persons responsible for determining the educational needs of the student which, at a minimum, shall include a school administrator or designee, the student's regular classroom teacher, appropriate special education personnel, other support personnel, the parent, and when appropriate, the student;

B. organize the assessment data and other relevant information and reports, including information supplied by the parents, review that data and determine the student's educational needs;

C. interpret the data consistent with the requirement of nondiscrimination;

D. upon request of the parent, determine whether it is appropriate to involve additional staff or other persons on the team including someone who is a member of the same minority or cultural background or who is knowledgeable concerning the racial, cultural, or handicapping differences of the student; and

E. schedule the student staffing at a time and place that is mutually acceptable to the school and parents; the district shall proceed if the parents do not respond to the request to participate.

Subp. 2. **Development of individual education program plan.** The development of the program plan must:

A. be prepared, in writing, by the providing district for each person in need of special education services; when the providing district is not the resident district, a copy of the

program plan shall be sent to the resident district;

B. be developed in accordance with the requirement of nondiscrimination, the principle of the least restrictive alternative, and recognized professional standards;

C. be based on the assessment data and other relevant reports and information; and

D. be prepared, in writing, by the resident district when contracting for special education services from a public, private, or voluntary agency.

Subp. 3. **Content of individual educational program plan.** The program plan must be based on the assessment data and other information and be consistent with the requirement of nondiscrimination and the principle of least restrictive alternative and must include:

A. A description of the special education service needs of the student as determined by the staffing team and the names of the persons on the team.

B. A statement of annual goals and periodic review objectives for the special education services including the criteria for attainment.

C. The plan for, location of, and frequency of periodic review of the progress in reaching the prescribed educational goals and objectives.

D. The reasons for the type of education placement and program including type of special education services to be provided, the location, amount of time, starting date, anticipated special education service duration, names, and school telephone numbers of those personnel responsible for providing the special education services. In accordance with the principle of least restrictive alternatives, substantiate why the proposed action is the most appropriate in terms of the person's educational needs.

E. The changes in staffing, transportation, facilities, curriculum, methods, materials, and equipment and other educational services that will be made to permit successful accommodation and education of the student in the

least restrictive alternative.

F. A description of the educational activities in which the student will participate in environments which include nonhandicapped students. This provision must be included in the plan only when the student's primary placement will be in a special education program.

Subp. 4. **Individual conference scheduled to interpret assessment.** At the request of the parent, the district shall schedule an individual conference with a knowledgeable school employee for the purpose of receiving interpretations of the assessment or reassessment data or procedures or for the purpose of explaining the individual educational plan or its development.

Subp. 5. **Notice to parents after completion of program plan and prior to placement.** Notice in accordance with the provisions of part 3525.3600 is required whenever the providing school district proposes to initiate or change or refuses to initiate or change the level of educational placement as defined in the "Continuum of Placement Model," or proposes to initiate or significantly change or refuses to initiate or significantly change the special education services for the child. For the purposes of this part the terms initiate or change shall be construed to include the proposals set forth in Minnesota Statutes, section 120.17, subdivision 3b, clauses (c) (2), (3), (4), and (5). The notice shall be served prior to the initiation or change or refusal to initiate or change the educational placement or special education services for the child. The notice shall be served within ten days after completion of the program plan and/or the refusal to initiate or change.

MS s 120.17 subd 3

3525.3000 PERIODIC REVIEWS.

The providing school district shall conduct periodic reviews of the program plan and shall determine:

A. the degree to which the periodic review objectives as identified in the educational program plan are being achieved;

B. the appropriateness of the educational program

plan as it relates to the student's current needs;

C. what modifications, if any, need to be made in the program plan.

The initial review shall be made at the time specified in the program plan, but at least once a year following placement.

These periodic reviews shall be made by those persons directly responsible for implementing the educational program and by other school district agents as may be needed to ensure an informed and adequate review.

The results of such periodic reviews shall be included in the student's school records and a copy sent to the parent and to the resident district if different from the providing district. This copy shall inform the parents or the resident district that they may request a conference to review the student's program plan at any time and the procedure to do so.

The reviews shall be made in accordance with the requirements for nondiscrimination and recognized professional standards.

MS s 120.17 subd 3

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3525.3100 REQUIREMENTS FOR REASSESSMENT AND FOLLOW-UP REVIEW.

When a pupil is continued in the primary placement in a special education program, the providing district shall conduct an educational reassessment according to the procedures specified in parts 3525.2600 to 3525.2800, at least once every three years.

The responsible school district shall conduct a follow-up review of the student's current performance no later than 12 calendar months after special education services are discontinued to determine if progress is satisfactory.

MS s 120.17 subd 3

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3525.3200 FORMAL NOTICE TO PARENTS.

The notice shall be in writing and shall be served on the parent. Every effort shall be made by the providing school

district to assure that no person's rights are denied for lack of a parent, or surrogate parent, or duly appointed guardian. The notice shall be written in the primary language of the home and in English, and the district shall make reasonable provisions for such notice to nonreaders and non-English-speaking persons necessary to ensure that the information contained in the notice is understood. For parents who are handicapped persons because of a hearing, speech, or other communication disorder, or because of the inability to speak or comprehend the English language as provided in Minnesota Statutes, section 546.42 the school district shall cause all pertinent proceedings, including but not limited to the conciliation conference, the prehearing review, the hearing, and any appeal to be interpreted in a language the handicapped person understands by a qualified interpreter as provided in Minnesota Statutes, section 546.42.

MS s 120.17 subd 3

3525.3300 CONTENTS OF NOTICE.

All notices must be sufficiently detailed and precise to constitute adequate notice for hearing of the proposed action and contain a full explanation of all of the procedural safeguards available to parents under the provision of parts 3525.0200 to 3525.4700. All notices must:

A. Inform the parents of their right to review and receive copies of all records or other written information regarding their child in the school's possession.

B. Inform the parents of their right and the procedure and time for them to participate as a team member in developing and determining their child's educational program, including special education services and/or to provide information relative to his or her assessment and the development of the program plan.

C. Inform the parents of their right and the procedure and time to receive interpretations of assessment or reassessment procedures, instruments and data or results and of the program plan from a knowledgeable school employee and for

that conference to be held in private.

D. Inform the parents of their right and the procedure and time to have included on the team that interprets the assessment data and/or develops the individual program plans, such person(s) described in part 3525.2900, subpart 1 including a person who is a member of the same minority or cultural background or who is knowledgeable concerning the racial, cultural, or handicapping differences of the student.

E. Inform the parents that they may:

(1) Obtain an independent assessment at their own expense.

(2) Request from the district information about where an independent assessment may be obtained.

(3) Obtain an independent assessment at public expense if the parent disagrees with an assessment obtained by the district. However, a district may initiate a due process hearing to show that its assessment is appropriate after at least one conciliation conference. If the final decision is that its assessment is appropriate, the parents still have the right to an independent assessment, but not at public expense. Whenever an independent evaluation is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria which the district uses when it initiates an evaluation.

F. Inform the parents that the district will not proceed with proposed actions defined in part 3525.0200, subparts 7 and 8 without prior written consent.

G. Inform the parents that if they object to the proposed action in writing a conciliation conference will be held at a mutually convenient time and place, but that if the parents refuse to attend the conference and the proposed action is not an initial action as defined in part 3525.0200, subparts 7 and 8, the school district will proceed with the proposed action.

H. Inform the parents that if they still object to

the proposed action at anytime after the first conciliation conference is convened, they have a right to voice that objection at an impartial due process hearing.

I. Inform the parents that they have the right to be represented by counsel or another person of their choosing at the conciliation conference or the impartial due process hearing.

J. A statement assuring that their child's educational program will not be changed as long as the parent objects to the proposed action, in the manner prescribed by parts 3525.0200 to 3525.4700.

K. Include a "response form" on which the parent may indicate their approval of or objection to the proposed action and identify the district employee to whom the "response form" should be mailed or given and to whom questions may be directed.

L. Inform the parents of their right to be represented in preparation of and at the hearing by legal counsel or other representative of their choice.

M. Inform the parents of their right, in accordance with laws relating to confidentiality, to examine and receive copies of the child's school records before the hearing, including tests, assessments, reports, or other information concerning the educational assessment or reassessment upon which the proposed action may be based.

N. Inform the parents of their right to call their own witnesses and to present evidence, including expert medical, psychological, and educational testimony and relevant records, tests, assessments, reports, or other information.

O. Inform the parents of their right to request the attendance of any official or employee of the providing or resident school district or any other person, who may have evidence relating to the proposed action and the manner and time in which to do so.

P. Inform the parents of their right to present evidence and cross examine any employee of the school district(s) or other persons who present evidence at the hearing.

Q. Inform the parents of any free or low cost legal

services available in the area.

R. Inform the parents of their right to have the child who is the subject of the hearing present at the hearing.

S. Inform the parents that the hearing shall be closed unless the parents request an open hearing.

T. Inform the parents that they have a right to obtain a record of the hearing including the written findings of fact and decisions whether or not they appeal.

MS s 120.17 subd 3

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3525.3400 NOTICE BY RESIDENT SCHOOL DISTRICT.

The resident school district, if different from the providing school district, shall receive notice of and may be a party to any hearings or appeals provided herein if the district notifies the parent and the providing school district of its intention to a party within seven days of receipt of notice of the hearing from the providing school district.

MS s 120.17 subd 3

3525.3500 NOTICE OF PERFORMANCE OR REFUSAL TO PERFORM ASSESSMENT.

Prior to the performance of or refusal to perform a formal educational assessment or reassessment as provided for in parts 3525.2600 to 3525.2800, the providing school district shall prepare and serve a notice which shall meet the requirements of parts 3525.3200 to 3525.3400. The portion of the notice which is specific to assessment or reassessment shall:

A. include the reasons for assessment or the refusal to assess and how the results may be used;

B. include a general description of the procedures to be used;

C. state where and by whom the assessment will be conducted;

D. inform the parents that the district will not proceed with the initial formal assessment as defined in part 3525.0200, without prior written consent of the child's parents; and

E. inform the parents that except for the initial formal assessment, the district shall proceed with the proposed assessment unless the parent objects on the enclosed "response form" or otherwise in writing within ten days after receipt of the notice.

MS s 120.17 subd 3

3525.3600 NOTICE OF CHANGE OR REFUSAL TO CHANGE EDUCATIONAL PLACEMENT.

Prior to the initiation or change or the refusal to initiate or change a child's educational placement or special education services, as set forth in part 3525.2900, subpart 5, the providing school district shall prepare and serve a notice which shall meet the requirements of parts 3525.3200 to 3525.3400. The portion of the notice which is specific to the educational placement and provision of services shall:

A. include a copy of the individual educational program plan as described in part 3525.2900, subpart 3;

B. inform the parents that the school district will not proceed with the initial placement and provision of service(s) as defined in part 3525.0200 without prior written consent of the child's parents; and

C. inform the parents that except for the initial placement and provision of service(s), the district will proceed with the proposed placement and provision of service(s) unless the parents object in writing on the enclosed "response form" or otherwise in writing within ten days after the receipt of the notice.

MS s 120.17 subd 3

3525.3700 CONCILIATION CONFERENCE.

Subpart 1. **When a conference must occur.** When a conciliation conference must occur: if the parent does not object in writing, to a proposed action as set forth in parts 3525.2600 to 3525.2800 or part 3525.2900, subpart 5, within 14 days after receipt of the notice, and the proposed action is not an initial action as defined in part 3525.0200, subparts 7 and

B, the proposed action shall take place. If such written objection is made, the providing school district shall arrange for a conference with the parent for the purpose of reviewing the reasons for the proposed action and conciliating the matter. The conference shall be held at a time and place mutually convenient to the parent and the school district representatives and shall be held within ten days after receipt of the written objection. There may be more than one such conference and the parent or district may request a hearing under part 3525.3800 at anytime after the first conciliation conference is convened.

If the parent refuses to provide prior written consent as set forth in parts 3525.3500, item D and 3525.3600, item B within ten days after the receipt of the notice and response form, the providing school district shall arrange for a conference with the parent for the purposes of reviewing the reasons for the proposed action, reviewing the parent's suggestions and concerns, and conciliating the matter. Each conference shall be held at a time and place mutually convenient to the parent and school district representatives and the initial conference shall be held within ten days after the expiration of the ten day period for parent response. In cases where the parent fails to attend the initial conciliation conference, the district may choose to schedule additional conciliation conferences.

Subp. 2. **Memorandum.** Within seven days of the final conciliation conference the providing district shall serve the parent with a written memorandum which shall inform the parent:

A. Of the school districts proposed action following the conference.

B. That if they continue to object to the proposed action they have a right to object to the proposed action at an impartial due process hearing and the procedure and time in which to do so, including a "request form" on which the parent may request the hearing, and the identification of the district employee to whom the written request form or other written

request for hearing should be mailed, and to whom questions and legal documents or requests relating to the hearing may be directed.

C. That if they do not request a hearing on the written "request form" or otherwise in writing pursuant to part 3525.3800 within seven days after receipt of the notice, the district will proceed with the proposed action; unless the proposed action is an initial action as defined in part 3525.0200, subparts 7 and 8. In cases of such proposed initial actions, when a parent continues to refuse to provide written permission, the district shall schedule a hearing within seven days after the expiration of the seven days allowed for parent response.

D. That if a hearing is scheduled the district shall send a notice describing the rights and procedures available to the parents relative to the hearing.

MS s 120.17 subd 3

3525.3800 WHEN A HEARING MUST BE HELD.

A hearing regarding a proposed action as set forth in parts 3525.2600 to 3525.2800 or part 3525.2900, subpart 5 shall be held whenever the providing district receives the parents' request for a hearing. This request must be in writing and must be made within seven days after the parents' receipt of the written memorandum pursuant to part 3525.3700, subpart 2. Provided, however, that no parent shall have a right to request a hearing unless at least one conciliation conference has been convened pursuant to part 3525.3700, subpart 1. A district shall conduct a hearing whenever a parent refuses to provide written permission for the initial formal assessment or the initial placement and provision of special education services, provided the district has made at least one attempt to obtain this written consent through at least one conciliation conference.

MS s 120.17 subd 3

3525.3900 NOTICE OF A HEARING.

Written notice of the time, date, and place of all hearings shall be given to all parties by the providing district at least ten days in advance of such hearings; and the hearing shall be held at a time, date, and place mutually convenient to all parties.

Within five days of receipt of the parent's written request for a hearing the providing school district shall serve the parent with a written notice of rights and procedures relative to the hearing which shall inform the parent:

A. That the hearing shall take place before an impartial hearing officer mutually agreed to by the school board and the parent. If the school board and parent are unable to agree on a hearing officer, the school board shall request the commissioner to appoint a hearing officer.

B. That they will receive notice of the time, date, and place of the hearing at least ten days in advance of the hearing which will be held within 30 days after the written request.

C. Inform the parents of the following rights and responsibilities:

(1) of their right to receive a list of persons who will testify on behalf of the district concerning the proposed action within five days of the date the district receives their written request for the list of persons testifying;

(2) of their responsibility, within five days after written request by the school district(s), to provide to the district(s) a list of persons who will testify on the parent's behalf concerning the proposed action;

(3) of their right, at least five days prior to the hearing, to receive from the providing or resident school district, a brief resume of "additional material allegations" referring to conduct, situations, or conditions which are discovered to be relevant and which were not contained in the original notice or memorandum; and that if such material allegations are not so disclosed, it shall be left to the

discretion of the person conducting the hearing to determine if those material allegations may be introduced or considered.

D. That at the hearing the burden of proof is on the school district to show that the proposed action is justified on the basis of the child's educational needs or his or her current educational performance, or presenting handicapping conditions taking into account the presumption that placement in a regular public school class with special education services is preferable to removal from the regular classroom.

E. That the hearing officer will make a written decision based only on evidence received and introduced into the record at the hearing not more than 45 days from the receipt of the request for the hearing and that the proposed action will be upheld only upon showing by the school district by a preponderance of the evidence. A proposed action that would result in the child being removed from regular education program may be sustained only when, and to the extent the nature or severity of the handicap is such that a regular education program would not be satisfactory and the child would be better served in an alternative program. Consideration of alternative educational programs must also be given.

F. That the decision of the hearing officer is binding on all parties unless appealed to the commissioner by the parent or the providing district.

G. That unless the district and parents agree otherwise, the student shall not be denied initial admission to school and that the student's education program shall not be changed, as long as the parents object to the proposed action in the manner prescribed by parts 3525.0200 to 3525.4700.

MS s 120.17 subd 3

3525.4000 HEARING OFFICERS.

The hearing shall take place before an impartial hearing officer mutually agreed to by the school board and the parents. If the school board and the parent are unable to agree on a hearing officer, the school board shall request the commissioner to appoint a hearing officer. The hearing officer shall not be

a school board member or employee of the school district where the child resides or of the child's school district of residence, an employee of any other public agency involved in the education or care of the child, or any person with a personal or professional interest which would conflict with his objectivity at the hearing. A person who otherwise qualifies as a hearing officer is not an employee of the district solely because the person is paid by the district to serve as a hearing officer. If a hearing officer requests an independent educational assessment of a child, the cost of the assessment shall be at district expense. All expenses of the hearing, except for the parents' and resident school district's attorney's fees or other expenses incidental to the parent or resident school district participation in the hearing, shall be paid by the providing school district.

MS s 120.17 subd 3

3525.4100 PREHEARING REVIEW BY THE HEARING OFFICER.

Subpart 1. Information received prior to the hearing. Five days prior to the hearing, the person(s) conducting the hearing shall receive copies of:

A. the providing school district's notice(s) and memorandum prepared pursuant to part 3525.3700, subpart 2 to the parents;

B. written information concerning the providing school district's educational assessment or reassessment and copies of any parties' tests, evaluations, or other admissible reports or written information relating to such assessment or reassessment, or the proposed action;

C. a copy of the student's current and proposed individual educational program plan; and

D. such other information from the school district(s) or parent as the hearing officer may have requested at a prior date provided that a copy of such information is provided to all parties, and further provided that such information is made a part of the hearing record.

The provisions of items B and C need not apply when the

hearing concerns a proposed action as set forth in parts 3525.2600 to 3525.2800.

Subp. 2. **Duties of hearing officers after receipt of the information.** Upon receipt of the information set forth in subpart 1, the hearing officer:

A. shall review the same for compliance with parts 3525.0200 to 3525.4700;

B. may at his or her discretion meet with the parties together prior to the hearing;

C. may require the providing school district to perform an additional educational assessment or reassessment;

D. may require the providing school district to propose an alternative individual educational program plan;

E. may require the providing school district to send additional notice to the parents;

F. may do such additional things necessary to achieve compliance with parts 3525.0200 to 3525.4700;

G. may postpone the hearing for up to 15 days to achieve the purposes of this subpart; and

H. may grant specific extensions of time beyond the 45 day period established in part 3525.3900, item E at the request of either party.

MS s 120.17 subd 3

3525.4200 HEARING RIGHTS OF THE RESPECTIVE PARTIES.

The hearing shall be closed unless the parents request an open hearing. The parties shall have the right to representatives of their own choosing, including legal counsel.

At a reasonable time prior to the hearing, the parent or their representative(s), as the case may be, shall be given access to all of the providing and resident school districts' records and such other records pertaining to the child that are authorized by law to be disclosed, including but not limited to all tests, evaluations, assessments, reports, and other written information concerning the educational assessment or reassessment, conducted pursuant to parts 3525.2600 to 3525.2800 upon which the proposed action may be based.

At least five days prior to the hearing the parents shall receive from the school districts, who are parties of the hearing, a brief resume of "additional material allegations" referring to conduct, situations, or conditions which are discovered and found to be relevant to the issues to be contested at the hearing and which are not contained in the original notice or memorandum provided pursuant to parts 3525.3200 to 3525.3600 or part 3525.3700, subpart 2. If such material allegation or information relating thereto are not so disclosed, it shall be left to the person conducting the hearing to determine if those material allegations may be introduced or considered. Within five days after the written request is received, any party shall receive from the other parties a list of witnesses who may be called to testify at the hearing. Such list must be filed with the person(s) conducting the hearing. Such lists may be modified at any time but each party should be notified immediately if possible. All parties or their representatives, as the case may be, shall have the right to request the attendance of any employee of the school district(s), or any other person who may have evidence relating to the proposed action, and to confront, and to cross examine any such witness. Any such request must be made to the appropriate school district or to the person whose attendance is requested at least five days in advance of the hearing. Such written requests shall also be filed with the person(s) conducting the hearing at the time of hearing.

If the person conducting the hearing determines at the conclusion of the hearing that there remain disputes of fact which, in the interest of fairness and the child's educational needs, require the testimony of additional witnesses, or if the hearing officer concludes that alternative educational programs and opportunities have not been sufficiently considered, he or she may continue the hearing for not more than ten days, for the purpose of obtaining the attendance of such witnesses or considering such alternative programs and opportunities. The parties' right to cross examination and confrontation and other

applicable rights and procedures set forth herein shall continue and be given full force and effect.

MS s 120.17 subd 3

3525.4300 HEARING PROCEDURES.

The hearing officer shall preside over and conduct the hearing and shall rule on procedural and evidentiary matters, and his or her decision shall be based solely upon the evidence introduced and received into the record. The school district(s) shall bear the burden of proof as to all facts and as to grounds for the proposed action. One purpose of the hearing is to develop evidence of specific facts concerning the educational needs, current educational performance, or presenting handicapping conditions of the person as it relates to the need for the proposed action. Consistent with the rights and procedures set forth herein, nothing in these rules shall limit the right of the hearing officer to question witnesses or request information.

A tape recording, stenographic record, or other record of the hearing shall be made, and if an appeal is filed pursuant to parts 3525.4600 and 3525.4700, the hearing shall be transcribed by the providing school district and shall be accessible to the parties involved within five days of the filing of the appeal.

MS s 120.17 subd 3

3525.4400 THE DECISION OF THE HEARING OFFICER.

Subpart 1. **Preparation of written decision.** Not more than 45 days from the receipt of the request for a hearing, the hearing officer shall prepare a written decision based on evidence received and introduced into the record at the hearing. Such decision shall address itself to subparts 2 and 3.

Subp. 2. **Decisions regarding assessment or reassessment.** The hearing officer may sustain a proposed assessment or reassessment of the person as set forth in parts 3525.2600 to 3525.2800 upon a showing by the school district(s) by a preponderance of the evidence which demonstrates that there are facts, relating to the person's performance in his or her

present education placement or presenting handicapping conditions, which indicate reasonable grounds to believe that the educational assessment or reassessment procedures are justified, as a step toward the possible initiation of or change in the person's educational placement or program, including special education services, which will provide an educational program, including special education services, appropriately suited to the person's needs.

Consistent with the standards, requirements, and principles set forth in statute and parts 3525.0200 to 3525.4700, the hearing officer shall have the authority, based on all the evidence received at the hearing, to modify the proposed assessment or reassessment instruments or procedures in order to ensure compliance with the requirement of nondiscrimination.

Subp. 3. **Decisions regarding educational placement.** Based on an application of the standards, requirements, and principles set forth in Minnesota Statutes, section 120.17, subdivision 3a, and in parts 3525.0200 to 3525.4700, the proposed action regarding the person's educational placement or special education services as set forth in part 3525.2900, subpart 3 shall be sustained in whole or in part by the hearing officer only upon a showing of need by the school district(s) by a preponderance of the evidence. In deciding if the proposed action is to be sustained, in whole or part, the educational needs of the child shall be determinative. However, there shall be a presumption that among alternative programs of education, that to the maximum extent appropriate, a primary placement in a regular public school class and program with appropriate special education services, is preferable to removal from the regular classroom.

The hearing officer may sustain a proposed action that would result in the child being removed from a regular education program only when, and to the extent that, the nature or severity of the handicap is such that education in the program with the use of special education services cannot be accomplished satisfactorily, and there is indication that the

child will be better served with an alternative program or services. This decision shall be made in accordance with the principle of least restrictive alternatives. The hearing officer shall also determine whether the school district(s) sufficiently considered alternative educational programs including special education services and opportunities and at the hearing, may receive any additional evidence presented by any interested party or person as to the availability and suitability of reasonable and viable educational alternatives. If the hearing officer concludes that there are no reasonable or viable educational alternatives the findings shall so state.

Subp. 4. Local decisions. All local decisions shall:

A. contain written findings of fact, and conclusions of law, including a statement of the controlling facts upon which the decision is made in sufficient detail to appraise the parties and the commissioner of the basis and reason for the decision;

B. state whether the special education services appropriate to the child's needs can be reasonably provided within the resources available to the providing district;

C. state the amount and source of any additional district expenditures necessary to implement the decision; and

D. be based on the standards and principles set forth in Minnesota Statutes, section 120.17, subdivision 3a, and subparts 2 and 3.

MS s 120.17 subd 3

3525.4500 FILING AND MAILING THE DECISION.

All decisions shall be filed with the commissioner of education and shall be sent by mail to the parties. The decision(s) shall also include information detailing the right to appeal the decision, the procedure and time in which to do so, and an appeal form on which to indicate the desire to appeal as set forth in part 3525.4600.

MS s 120.17 subd 3

3525.4600 EFFECTIVE DATE OF THE ACTION AND APPEALS.

The decision of the hearing officer shall be binding on all parties unless appealed to the commissioner by the parent or the school board where the child resides; and shall become effective 15 days after service of the decision unless the decision is appealed. The hearing officer's decision issued pursuant to part 3525.4400, subpart 2, 3, or 4, may be appealed by the parent or the school board where the child resides to the commissioner of education within 15 days of receipt of that written decision(s) in the following manner: the appeal decision shall be based on a review of the local decision(s) and the entire record; all notices of appeal shall be on the appeal form or otherwise in writing and shall be sent by mail to all parties to the hearing at the time the appeal is filed.

The school board shall be a party to any appeal. The commissioner shall issue a final decision based on a review of the local decision(s) and the entire records within 30 calendar days after the filing of the appeal. A written transcript of the hearing shall be made by the district; the transcript and entire record shall be accessible to the parties and provided to the commissioner within five calendar days after the filing of the appeal. If the transcript and record are not provided to the commissioner within five days of the filing of the appeal, the district shall request an extension of the time beyond the 30-day period equal to the number of days which exceeded the five-day period for filing the transcript and entire record. The commissioner shall seek additional evidence if necessary and may afford the parties an opportunity for written or oral argument; provided any hearing held to seek additional evidence shall be impartial due process hearing but shall be deemed not to be a contested case hearing. The commissioner may grant specific extensions of time beyond the 30-day period at the request of any party.

MS s 120.17 subd 3

3525.4700 FINAL DECISION.

The commissioner's final decision shall be in writing, include findings and conclusions, and be based on the standards

set forth in Minnesota Statutes, section 120.17, subdivision 3a and the standards, requirements, and principles set forth in part 3525.4400, subparts 2 and 3 and parts 3525.0200 to 3525.4700.

The decision of the commissioner shall be final unless appealed by the parent or the school board to the district court of the county in which the providing school districts, in whole or part, is located. The scope of judicial review shall be as provided in Minnesota Statutes, chapter 14.

If the providing school district fails to implement the hearing officer's decision, the parent shall have the right to bring such failure to the attention of the commissioner. In accordance with the provisions of Minnesota Statutes, section 124.15, the State Board of Education may impose such sanctions necessary to correct any such failure.

MS s 120.17 subd 3

REQUIREMENTS AND PROCEDURES CONCERNING THE STATE RESIDENTIAL SCHOOLS FOR DEAF, BLIND, AND MULTIPLE HANDICAPPED SENSORY IMPAIRED STUDENTS

3525.4800 DEFINITIONS.

Subpart 1. Scope. The following terms used throughout parts 3525.4800 to 3525.7500 shall have the following meanings ascribed to them.

Subp. 2. Defined in part 3525.0200. The definitions of these terms shall be as stated in part 3525.0200:

A. special education services;

B. handicapped persons;

C. least restrictive alternatives;

D. recognized professional standards;

E. proposed action;

F. nondiscrimination;

G. formal educational assessment; and

H. individual educational program plan.

Subp. 3. Additional terms. In addition, these terms shall have the following meanings ascribed to them.

Subp. 4. Admission and transfer team. "Admission and

transfer team" as referred to in parts 3525.4800 to 3525.7500 shall mean the individuals who are required to participate in a formal meeting to develop, review, or revise a handicapped student's individual education program and/or to determine whether to admit or transfer the student to or from the state residential schools.

Subp. 5. Admit. "Admit" shall mean the action taken by the state residential schools in accepting the placement of a student and agreeing to provide appropriate educational services to the student.

Subp. 6. Annual review. "Annual review" as used in parts 3525.4800 to 3525.7500 shall mean a review which shall be conducted by the state residential schools and reviewed at a formal meeting. The review shall be held at least once a year to examine a student's individual education program and if appropriate, revise its provisions. This may be counted as one of the required periodic reviews during the year in which it is conducted.

Subp. 7. Days. "Days" shall mean calendar days between the official beginning and ending dates of the school year at the state residential schools. All procedures relating to but not limited to assessments, reassessments, individual education program plans, periodic reviews, conciliation conferences, and hearings that are initiated for a student in placement at the state residential schools before the end of the school year, must be completed within the required time period, even if that time period extends beyond the end of the official school year. In addition, applications for admission shall be processed in accordance with parts 3525.4900 to 3525.5500 at any time during the year, even if these procedures extend beyond the end of the official school year.

Subp. 8. Formal notice. "Formal notice" as used in parts 3525.4800 to 3525.7500 shall mean a written statement served upon the student's parent or guardian so as to fulfill the requirements of procedural safeguards.

Subp. 9. Parent. "Parent" shall mean a parent, a

guardian, a person acting as a parent of a child, or a legally appointed guardian. The term does not include the state if the child is a ward of the state.

Subp. 10. **Periodic review.** "Periodic review" as used in parts 3525.4800 to 3525.7500 shall mean a review which shall be conducted by the state residential schools, at least twice a year, to determine the appropriateness of a student's individual education plan and, if appropriate, revise its provisions.

Subp. 11. **Resident school district.** "Resident school district," also referred to as "district," shall mean the district where the handicapped student's parent or legal guardian resides or the district designated by the commissioner as provided in Minnesota Statutes, section 120.17, subdivisions 6, 7a, and 8a. The cost of transporting the student to and from the state residential school shall be borne by the student's resident district as provided in Minnesota Statutes, section 128A.07.

Subp. 12. **Residential schools administrator.** "Residential schools administrator" shall mean the administrator of the Minnesota state residential schools as defined in Minnesota Statutes, section 128A.02, subdivision 3, or his/her designee.

Subp. 13. **Serve or service.** "Serve" or "service" as used in parts 3525.4800 to 3525.7500 shall mean the in-hand delivery or the first class mailing to the last known address of a written notice. Service by mail is complete upon mailing.

Subp. 14. **State residential schools.** "State residential schools" as used in parts 3525.4800 to 3525.7500 shall mean either or both the Minnesota School for the Deaf and the Minnesota Braille and Sight-saving School, which are operated by the State Board of Education pursuant to Minnesota Statutes, chapter 128A.

Subp. 15. **Transfer.** "Transfer" shall mean the action taken by the state residential schools in dismissing a student from placement and the termination of the responsibility for providing the appropriate educational services to the student.

MS s 128A.02 subds 2,6

3525.4900 REFERRAL AND APPLICATION PROCEDURES.

Application for admission shall be made by the resident school district, hereinafter also referred to as the district, to the state residential schools' administrator on the appropriate forms provided by the commissioner and may be made at any time during the calendar year.

Prior to application for admission, the district shall have completed for each student for whom admission is sought, the following procedures as established by parts 3525.2500 to 3525.4700:

A. A formal educational assessment consistent with the provisions of parts 3525.2500 to 3525.2800 shall have been conducted and the special education needs of the pupil determined.

B. A student staffing consistent with the provisions of part 3525.2900 shall have been conducted.

C. A review of the student's current level of performance and the determination of the special education service needs shall have been made and the district shall have developed a statement of annual goals and objectives for the student. The district shall have reviewed the programs and services available to the district and shall have stated reasons why an appropriate education in the least restrictive alternative cannot be provided or reasonably made available by the district.

D. The parent and the district shall:

(1) have agreed that the district is unable to provide an appropriate program and that a referral for placement at the state residential schools is appropriate; or

(2) if the parent and district do not agree that a referral to the state residential schools is appropriate, a local due process hearing pursuant to parts 3525.3800 to 3525.4700 shall have been held. Before the state residential schools shall consider the student for admission, the decision resulting from the hearing process must be that the resident school district is unable to provide an appropriate program and

that a referral for admission to the state residential schools is appropriate.

MS s 126A.02 subds 2,6

3525.5000 REFERRAL, REVIEW, AND ADMISSION MEETING.

Subpart 1. **Role of residential schools' administrator for admission.** Within seven days of receipt of a referral for admission, the residential schools' administrator shall review the referral information and determine whether additional assessment or other information is needed and request in writing from the district any additional information that is needed.

The residential schools' administrator shall schedule the team meeting which shall be conducted within 30 days of receipt of complete referral information pursuant to part 3525.4900 and at a time that is mutually acceptable to the state residential schools and the parent and serve a written notice of the team meeting to the parent and the district in accordance with the provisions of parts 3525.6000 to 3525.6500 prior to conducting the admission meeting.

Subp. 2. **Role of residential schools' administrator in development of program.** To determine whether an appropriate individual educational program plan can be developed by the state residential schools to appropriately meet the educational needs of the student in the least restrictive alternative, the state residential schools' administrator shall:

A. Appoint participants from the state residential schools' staff to serve on the admission and transfer team. The team shall include at a minimum an administrator of the appropriate education program or his/her designee, an administrator of the appropriate residential program or his/her designee, one appropriate teaching staff person, and other related services staff persons as deemed appropriate by the state residential schools' administrator.

B. Schedule an admission and transfer team meeting which shall include the state residential schools' required participants, the parent, the student if appropriate, and other persons as deemed appropriate by the residential schools'

administrator and may include a representative of the resident school district if the district chooses to participate.

C. Upon request of the parent, determine whether it is appropriate to involve additional state schools' staff on the admission and transfer team; and whether it is appropriate to include someone who is a member of the same minority, or cultural background or who is knowledgeable concerning the racial, cultural, or handicapping differences of the student. This statement shall not be read to limit the parent's right to include participants, other than the schools' employees, of his/her own choosing at the scheduled meeting.

Subp. 3. **Parents unable to attend admission meeting.** If the parent cannot attend the admission meeting, the state residential schools' administrator shall use and document other methods to ensure parent participation including individual or conference telephone calls; and an admission meeting shall be conducted without a parent in attendance if the residential schools' administrator is unable to convince the parent to attend.

Subp. 4. **Meeting needs of student through least restrictive alternative.** The admission and transfer team shall determine whether placement at the state residential schools will appropriately meet the educational needs of the student in the least restrictive alternative. This determination shall be based on:

A. the complete referral information;

B. any additional information supplied by the parent;

C. other relevant information and reports;

D. the record of the decision of the student's resident school district pursuant to Minnesota Statutes, sections 120.17, subdivision 3b and 128A.05, subdivisions 1 and 2;

E. interpretation of the data in accordance with the requirements of nondiscrimination pursuant to part 3525.0200, subpart 10 and recognized professional standards; and

F. the team's development of an appropriate

individual educational program plan, or the team's determination that an appropriate individual educational program plan cannot be developed by the state residential schools.

MS s 128A.02 subds 2,6

3525.5100 ADMISSION PROCEDURES AND DEVELOPMENT OF PROGRAM.

The admission and transfer team shall recommend to the state residential schools' administrator that:

A. the state residential schools can appropriately meet the educational needs of the student in the least restrictive alternative and that the student be admitted pursuant to the parent's written approval of the team's proposed individual educational program plan; or

B. the state residential schools cannot appropriately meet the educational needs of the student as the least restrictive alternative and that the student not be admitted to the state residential schools, based upon the team's determination that an appropriate individual educational program for the student at the state residential schools cannot be developed.

MS s 128A.02 subds 2,6

3525.5200 DEVELOPMENT OF INDIVIDUAL PROGRAM.

If the student is recommended to be admitted to the state residential schools, the admission and transfer team shall develop a proposed individual education program plan listing the services that the student will receive at the state residential schools. The proposed individual educational program plan shall be prepared in writing; be based on the assessment data, the district's statement of goals and objectives, and other appropriate information; be consistent with the requirement of nondiscrimination and the principle of the least restrictive alternative; and shall include:

A. The names of the persons on the team.

B. A description of the education service needs of the student as determined by the team.

C. A statement of annual goals and periodic review

objectives for the education services to be provided including the criteria for attainment of the objectives.

D. The plan for, location of, and frequency of periodic review of the progress in reaching the prescribed educational objectives.

E. The reasons for the type of education program including type of services to be provided, the location, amount of time, starting date, anticipated duration of services, and the names and school telephone numbers of those personnel responsible for providing the services. In accordance with the principle of least restrictive alternatives, the proposed action shall be substantiated as the most appropriate in terms of the students' educational needs.

F. The changes in staffing, transportation, facilities, curriculum, methods, materials and equipment, and other services that will be made to permit successful accommodation and education of the student in the least restrictive alternative.

G. A description of any activities in which the student will participate in environments which include nonhandicapped students.

MS s 128A.02 subds 2,6

3525.5300 DECISION TO DENY OR ADMIT STUDENT.

Based upon the recommendations of the admission and transfer team admission meeting, the state residential schools' administrator shall:

A. admit the student to the state residential schools pursuant to the parent's written approval of the individual educational program plan; or

B. deny the student admission to the state residential schools; and

C. provide formal notice to the parent and to the district of the determination to admit or to deny admission in accordance with the provisions of parts 3525.6000 to 3525.6500. The notice shall be served within 14 days of the admission and transfer team admission meeting.

MS s 128A.02 subds 2,6

3525.5400 DECISION TO ADMIT.

If the determination is to admit the student pursuant to the parent's written approval of the individual educational program plan, the initial notice shall include the proposed individual educational program plan and shall state that the parent shall agree in writing to this individual educational program plan. If the parent does not give written approval to the individual educational program plan within 14 days after service of the notice, the state residential schools' administrator shall arrange for a conciliation conference pursuant to part 3525.6600. If the parent continues to object to the proposed individual educational program plan, the parent may initiate an impartial due process hearing in accordance with parts 3525.6800 to 3525.7500. If within 30 days after serving the formal notice which shall include the proposed individual educational program plan, no response or objection is obtained from the parent, or if agreement has not been reached in conciliation conference and no hearing is requested in accordance with parts 3525.6800 to 3525.7500, efforts to reach the parent shall be documented, and the state residential schools' administrator shall serve the parent and the resident school district written notice stating that effective the date of the notice the student shall not be admitted to the state residential schools under the current application for admission procedure. This action shall not be interpreted to mean that application for admission of the same student cannot be made at a future date if such application is deemed appropriate by the parent and the resident school district in accordance with procedures as established by parts 3525.2500 to 3525.4700.

MS s 128A.02 subds 2,6

3525.5500 DECISION TO DENY ADMISSION.

If the determination is to deny the student admission to the state residential schools, the residential schools' administrator shall send a formal notice to the parent and the

resident district which shall inform them of the decision to deny admission based upon the schools' determination that an appropriate individual educational program plan cannot be developed by the state residential schools. If the parent objects to the action to deny admission, the state residential schools' administrator shall arrange for a conciliation conference pursuant to part 3525.6600. If the parent continues to object to the action to deny admission, the parent may initiate an impartial due process hearing in accordance with parts 3525.6800 to 3525.7500.

MS s 128A.02 subds 2,6

3525.5600 PERIODIC REVIEW AND ANNUAL REVIEW.

Subpart 1. **Purpose.** The state residential schools shall conduct periodic reviews of the individual education program plan and shall determine:

A. the degree to which the goals and objectives as identified in the educational program plan are being achieved;

B. the appropriateness of the educational program plan as it relates to the student's current needs; and

C. what modifications, if any, need to be made in the program plan.

Subp. 2. **Frequency.** There shall be at a minimum one periodic review and one annual review each year; the initial periodic review shall be made at the time specified in the program plan.

Subp. 3. **Conduct.** Periodic reviews shall be made by those persons directly responsible for implementing the educational program and by other designees of the state residential schools as may be needed to ensure an informed and adequate review.

The annual review shall be an admission and transfer team meeting held to review a student's individual educational program plan and if appropriate revise its provisions.

The reviews shall be conducted in accordance with the requirements for nondiscrimination pursuant to part 3525.0200 and recognized professional standards.

Subp. 4. **Report of results.** The results of periodic

reviews and annual reviews shall be included in the student's school records and a copy sent to the parent and to the district. This copy shall inform the parent that he/she may request a conference to review the student's program plan at any time and the procedure to do so.

MS s 128A.02 subds 2,6

3525.5700 REASSESSMENT.

The state residential schools shall conduct an educational reassessment according to the procedures specified for formal educational assessments in parts 3525.2600 to 3525.2800 at least once every two years. In the year that the reassessment is conducted the meeting following the reassessment may meet the requirement for one of the two reviews required pursuant to part 3525.5600.

A reassessment shall be conducted before the state residential schools propose a transfer from the schools.

A reassessment may be conducted at parent request, unless the state residential schools determine that there has been a recent and adequate assessment or reassessment.

MS s 128A.02 subds 2,6

3525.5800 TRANSFER.

The admission and transfer team shall recommend to the state residential schools' administrator that a student be dismissed from placement at the state residential schools when it has been determined that the appropriate program for the student in the least restrictive alternative is no longer placement at the state residential schools. This determination shall be made based upon the results of an educational reassessment. Based upon the recommendations of the admission and transfer team staffing, the state residential schools' administrator shall:

A. Dismiss the student from placement at the state residential schools pursuant to the parent's written consent to this proposed action.

B. Provide written notice of the determination to

transfer the student from placement at the state residential schools to the parent and the resident school district in accordance with the provisions of parts 3525.6000 to 3525.6500 within 14 days of the admission and transfer team staffing. The notice shall state that no such change shall be made without written parental consent.

C. If the parent does not give written consent to the transfer of the student from educational placement at the state residential schools within 14 days after service of the notice, the state residential schools' administrator shall arrange for a conciliation conference pursuant to part 3525.6600.

D. If the parent continues to object to the proposed action, the parent may initiate an impartial due process hearing in accordance with the provisions of parts 3525.6800 to 3525.7500.

E. If the parent continues to refuse to provide written consent to the transfer, but does not initiate a due process hearing, the state residential school shall schedule a due process hearing in accordance with parts 3525.6800 to 3525.7500.

MS s 128A.02 subds 2,6

3525.5900 ADMISSION AND TRANSFER TEAM MEETING.

An admission and transfer team meeting shall include the required state residential schools participants, the parent, the student if appropriate, and may include a representative of the resident school district and other persons as deemed appropriate by the residential schools' administrator. This statement shall not be read to limit the parent's right to include participants, other than the schools' employees, of his/her own choosing at the scheduled meeting. An admission and transfer team meeting shall be conducted:

A. to develop a recommendation regarding a student's application for admission;

B. to develop a current individual educational program plan for each student in attendance;

C. to review the results of the required biennial

reassessment or to review the results of reassessment that may be conducted in addition to the required biennial reassessment;

D. prior to the state residential schools proposing the transfer of a student from educational placement at the state residential schools based upon reassessment data and the determination that the appropriate program in the least restrictive alternative is not available at the state residential schools; and

E. to review the results of a reassessment within 30 days after the expiration of the period allowed for parental response, unless the parent objects to the reassessment through the procedures provided in parts 3525.2600 to 3525.2800 and part 3525.5700.

Formal notice in accordance with the provisions of parts 3525.6000 to 3525.6500 shall be provided to the parent and the district 14 days prior to conducting an admission and transfer team meeting. If the parent cannot attend the admission and transfer team meeting, the state residential schools' administrator shall use and document other methods to ensure parent participation including individual or conference telephone calls; and an admission and transfer team meeting shall be conducted without the parent in attendance if the residential schools' administrator is unable to convince the parent to attend.

MS s 128A.02 subds 2,6

3525.6000 FORMAL NOTICES TO PARENTS.

The provisions of parts 3525.3200 to 3525.3400 shall apply to formal notices served on parents of students enrolled at the state residential schools. Prior to the admission meeting, pursuant to part 3525.5000 the state residential schools shall prepare and serve a formal notice on the parent and the resident school district which shall:

A. include the reasons for the meeting and the persons who have been asked to be in attendance;

B. inform the parent of his/her right to request and receive copies of all records or other written information that

is in the state residential schools' possession regarding his/her child;

C. inform the parent of his/her right and the procedure and time to participate in developing his/her child's education program, and/or to provide information relative to the child's assessment and the development of the program plan;

D. inform the parent of his/her right and the procedure and time to request and to receive interpretations of assessment or reassessment procedures, instruments, and data or results from a knowledgeable state residential schools' employee, and for that conference to be held in private;

E. inform the parent of his/her right and the procedure and time to include such person(s) described in part 3525.2900, subpart 1, including a person who is a member of the same minority, or cultural background or who is knowledgeable concerning the racial, cultural, or handicapping differences of the student, on the team that interprets the assessment data and/or develops the individual education program plan;

F. inform the parent that the state residential schools shall proceed with the admission and transfer team meeting in order to consider the student's application for admission unless the parent objects in writing on the response form within 14 days after service of the notice;

G. include a response form on which the parent may indicate his/her objection to the proposed admission and transfer team meeting and which identifies the designee of the state residential schools to whom the response form should be mailed or given and to whom questions may be directed;

H. state that if the parent objects in writing to the admission meeting, the state residential schools shall consider that the student's application for admission to the state residential schools has been withdrawn by the parent effective on the date of the signing of the objection response form; and

I. inform the parent that if the student's application is withdrawn, the decision regarding the placement of the student shall be determined by the parent and the

resident school district in accordance with parts 3525.0200 to 3525.4700.

MS s 128A.02 subds 2,6

3525.6100 FORMAL NOTICE REQUIRED FOR ADMISSION.

When the state residential schools propose to admit a student pursuant to the parent's written approval of the proposed individual educational program plan, the state residential schools shall prepare and serve a formal notice which shall:

A. include a copy of the student's proposed individual educational program plan as described in part 3525.5200;

B. inform the parents of his/her right and time and procedure to request and to receive interpretation of the educational program plan from a knowledgeable school employee and for that conference to be held in private;

C. state that the parent's written consent shall be given to the individual educational program plan and the signed plan shall be returned to the state residential schools' administrator within 14 days of receipt of the notice if the student is to be admitted to the state residential schools;

D. state that the student shall be admitted to the state residential schools upon receipt by the state residential schools' administrator of the individual educational program plan with the parent's signature affixed;

E. inform the parent that the state residential schools shall not proceed to admit the student without the written consent of the parent to the proposed individual educational program plan;

F. inform the parent that if he/she objects to the proposed individual educational program plan that a conciliation conference pursuant to parts 3525.6600 and 3525.6700 shall be held at a mutually convenient time;

G. inform the parent that if he/she objects to the educational plan during or after the initial conciliation conference, he/she has a right to initiate an impartial due

process hearing in accordance with procedures set forth in parts 3525.6800 to 3525.7500;

H. inform the parent that he/she has the right to be represented by counsel or another person of their choosing at the conciliation conference or the impartial due process hearing;

I. inform the parent that he/she may obtain an independent educational assessment at his/her own expense and that at his/her request, the results of this independent assessment shall be considered in the development of an appropriate educational program for the student; and

J. include a response form on which the parent may indicate his/her objection to the proposed individual educational program plan and identify the designee of the state residential schools to whom the response form should be mailed or given and to whom questions should be directed.

MS s 128A.02 subds 2,6

3525.6200 FORMAL NOTICE REQUIRED FOR DENIAL OF ADMISSION.

When the state residential schools deny a student admission to placement at the state residential schools based on the school's determination that an appropriate individual educational program plan cannot be developed by the state residential schools, the state residential schools shall prepare and serve a formal notice which shall:

A. state that based on the admission and transfer team's review of the student's complete referral information, and the school's determination that an appropriate individual program plan cannot be developed by the state residential schools, the team's recommendation is that placement at the state residential schools cannot appropriately meet the educational needs of the student in the least restrictive alternative and the student is denied admission;

B. inform the parent that if he/she objects to the action of the state residential schools to deny admission, a conciliation conference pursuant to parts 3525.6600 and 3525.6700 shall be held; and

C. inform the parent that if he/she objects to the

action to deny admission during or after the initial conciliation conference, he/she has the right to initiate an impartial due process hearing in accordance with the procedures set forth in parts 3525.6800 to 3525.7500.

MS s 128A.02 subds 2,6

3525.6300 NOTICE REQUIRED FOR ASSESSMENT, SIGNIFICANT CHANGE, OR REFUSAL TO ASSESS OR CHANGE THE PROGRAM.

Prior to conducting an assessment or reassessment, refusing to conduct an assessment or reassessment, initiating a significant change in or refusing to make a significant change in a state residential schools' student's individual educational program plan, the state residential schools shall prepare and serve a formal notice which shall:

A. if the proposed action pertains to assessment or reassessment, include the reasons for assessment or the refusal to assess, how the results may be used if the assessment is conducted, a general description of the procedures to be used, and where and by whom the assessment will be conducted;

B. include a copy of the student's current individual educational program plan;

C. inform the parent of his/her rights to review and receive copies of all records or other written information regarding his/her child in the state residential schools' possession;

D. inform the parent of his/her right and the procedure and time to request and to receive interpretations of assessment or reassessment procedures, instruments, and data or results from a knowledgeable state residential schools' employee and for that conference to be held in private;

E. inform the parent of his/her right and the procedure and time for him/her to participate as a team member in developing and determining the child's educational program and/or to provide information relative to his/her assessment and the development of the educational program plan;

F. inform the parent of his/her right, the procedures, and the time within which to have included on the

team that interprets the assessment data and/or develops the individual educational program plan, such person(s) as described in parts 3525.2900, subpart 1 including a person who is a member of the same minority or cultural background or who is knowledgeable concerning the racial, cultural, or handicapping differences of the student;

G. inform the parent that he/she may obtain an independent assessment at his/her own expense and that at his/her request, the results of this independent assessment shall be considered in the development of an appropriate educational program for the student;

H. inform the parent that the state residential schools shall proceed with the proposed action unless the parent objects on the enclosed response form or otherwise in writing within 14 days after service of the notice;

I. inform the parent that if he/she objects to the proposed assessment or reassessment or proposed change in the educational program in writing, the state residential schools' administrator shall arrange for a conciliation conference pursuant to parts 3525.6600 and 3525.6700;

J. inform the parent that if the parent objects to the proposed action during or after the initial conciliation conference they may have an impartial due process hearing in accordance with parts 3525.6800 to 3525.7500;

K. inform the parent that he/she has the right to be represented by counsel or another person of his/her choosing at the conciliation conference or the impartial due process hearing;

L. include a statement assuring that the student's educational program will not be changed as long as the parent objects to the proposed action in the manner prescribed by these rules; and

M. include a response form on which the parent may indicate his/her approval of or objection to the proposed action and identify the state residential schools' employee to whom the response form should be sent and to whom questions may be directed.

MS s 128A.02 subds 2,6

3525.6400 FORMAL NOTICE REQUIRED UPON TRANSFER.

When the state residential schools propose the transfer of the student out of educational placement at the state residential schools pursuant to part 3525.5800, the state residential schools shall prepare and serve formal notice to the parent and the resident school district which shall:

A. state that based on reassessment of the student and the recommendations of an admission and transfer team meeting, the state residential schools propose to dismiss the student from placement at the state residential schools pursuant to the written consent of the parent to this proposed action;

B. inform the parent of his/her right to request and to receive copies of all records or other written information regarding his/her child in the state residential schools' possession;

C. inform the parent of his/her right and the procedure and time period within which to request and to receive interpretations of assessment or reassessment procedures, instruments, and data on results from a knowledgeable state residential schools' employee and for that conference to be held in private;

D. inform the parent that he/she may obtain an independent assessment at his/her own expense and that at his/her request, the results of this independent assessment shall be considered in the development of an appropriate educational program for the student;

E. include a response form on which the parent may indicate his/her approval of or objection to the proposed transfer from placement at the state residential schools and which states that the form shall be returned to the state residential schools' administrator within 14 days of receipt of the notice;

F. inform the parent that the state residential schools shall not proceed with the proposed transfer from placement of the student without prior written consent of the

parent;

G. inform the parent that if he/she gives written consent the student shall be dismissed from placement at the state residential schools at the time specifically stated in the proposed transfer from placement;

H. inform the parent that if he/she objects to the proposed transfer from placement in writing, a conciliation conference pursuant to parts 3525.6600 and 3525.6700 shall be held;

I. inform the parent that if he/she objects to the proposed transfer from placement during or after the initial conciliation conference, he/she has the right to initiate an impartial due process hearing in accordance with the procedures set forth in parts 3525.6800 to 3525.7500;

J. inform the parent that if he/she continues to refuse to provide written permission to the transfer, the state residential schools shall schedule a hearing in accordance with parts 3525.6800 and 3525.7500; and

K. state that the child's educational placement will not be changed as long as the parent objects to the proposed transfer from placement in the manner prescribed in parts 3525.4800 to 3525.7500.

MS s 128A.02 subds 2,6

3525.6500 NOTICE SENT TO DISTRICT OF RESIDENCE.

The state residential schools' administrator shall notify the district of residence whenever:

A. the parent determines that the student's application to the state residential schools is withdrawn prior to the student being admitted;

B. the student is denied admission to the state residential schools' programs;

C. the parent has removed the student from the state residential schools' program after he/she has been admitted; and

D. a student is graduated from the state residential schools or will not continue attending the school because he/she has attained the age of 21 years prior to September 1 of the

next official school year.

MS s 128A.02 subds 2,6

3525.6600 CONCILIATION CONFERENCE.

When a conciliation conference shall occur:

A. If the parent does not object in writing to a proposed action within 14 days after service of a notice pursuant to parts 3525.6000 to 3525.6500 and the proposed action is not admission to or transfer from the state residential schools, the proposed action shall take place. If such written objection is made, the state residential schools' administrator shall arrange for a conference with the parent for the purpose of reviewing the reasons for the proposed action and conciliating the matter. The conference shall be held at a time mutually convenient to the parent and the state residential schools' representatives and shall be held within 14 days after receipt of the written objection. There may be more than one such conference and the parent may request a hearing under parts 3525.6800 to 3525.7500 at any time after the first conciliation conference is held.

B. If the parent does not give written approval to the proposed individual educational program plan developed in accordance with part 3525.5200 within 14 days after the service of the notice, the residential schools' administrator shall arrange for a conference with the parent for the purpose of reviewing the plan and conciliating the matter. The conference shall be held at a time mutually convenient to the parent and state residential schools' representatives and shall be held within 14 days after the expiration of the 14-day period for parent response.

C. If the parent does not give written consent to the proposed transfer of the student from placement at the state residential schools in accordance with part 3525.5800 within 14 days after service of the notice pursuant to part 3525.6400, the residential schools' administrator shall arrange for a conference with the parent for the purpose of conciliating the matter. The conference shall be held at a time mutually

convenient to the parent and state residential schools' representatives and shall be held within 14 days after the expiration of the 14-day period for parent response.

MS s 128A.02 subds 2,6

3525.6700 MEMORANDUM OF THE CONCILIATION CONFERENCE.

Within seven days of the final conciliation conference the state residential schools shall serve the parent with a written memorandum which shall:

A. inform the parent of the state residential schools' proposed action following the conference;

B. inform the parent that if he/she continues to object to the proposed action he/she has a right to an impartial due process hearing in accordance with the provisions of parts 3525.6800 to 3525.7500 and state the procedure and time in which to request the hearing, including a request form on which the parent may request the hearing, and the identification of the state residential schools' employee to whom the written request form or other written request for hearing is to be mailed, and to whom questions and documents or requests relating to the hearing may be directed;

C. inform the parent that if he/she does not request a hearing on the written request form or otherwise in writing pursuant to parts 3525.6800 to 3525.7500, within seven days after receipt of the notice, the state residential schools shall proceed with the proposed action unless the proposed action is to admit the student to or to transfer the student from placement at the state residential schools;

D. inform the parent that if the proposed action is to admit the student pursuant to the parent's written consent of the proposed individual educational program plan, and agreement has not been reached in conciliation conference and no hearing is requested in accordance with parts 3525.6800 to 3525.7500 efforts to reach the parent shall be documented, and the state residential schools' administrator shall serve the parent and the resident school district written notice stating that effective the date of the notice the student shall not be

admitted to the state residential schools under the current application for admission procedure; and

E. inform the parent that if the proposed action is transfer of the student from placement at the state residential schools, when the parent continues to refuse to provide written permission, the state residential schools shall schedule a hearing within seven days after the expiration of the seven days allowed for parent response.

MS s 128A.02 subds 2,6

3525.6800 INITIATION OF THE HEARING.

A parent or the state residential schools may initiate an impartial due process hearing when either party continues to object to a proposed action and conciliation has not been achieved through one or more conciliation conferences pursuant to parts 3525.6600 and 3525.6700. The resident school district may be party to the hearing. The decision of the hearing officer shall be rendered not more than 45 days from the date of the receipt of the request for the hearing. The hearing officer may grant specific extensions of time beyond the 45-day period at the written request of either party.

MS s 128A.02 subds 2,6

3525.6900 NOTICE OF THE HEARING.

Written notice of the time, date, and place of all hearings shall be given to all parties by the state residential schools at least 14 days in advance of such hearings; and the hearing shall be held at a time, date, and place mutually convenient to all parties.

Within seven days of receipt of the parent's written request for a hearing, the state residential schools shall serve the parties with a written notice of rights and procedures relative to the hearing which shall inform the parent:

A. That the hearing shall take place before an impartial hearing officer appointed by the commissioner.

B. That they will receive notice of time, date, and place of the hearing 14 days in advance of the hearing which

will be held within 30 days after the written request.

C. Of the hearing rights of the respective parties including the following:

(1) The hearing shall be closed unless the parent requests an open hearing.

(2) The parties shall have the right to representatives of their own choosing, including legal counsel in preparation of and at the hearing. The state residential schools shall inform the parent of any free or low cost legal or relevant services available in the area.

(3) Not less than seven days prior to the hearing, the parent or his/her representative(s), as the case may be, shall be given access to all of the state residential schools' records and such other records pertaining to the child that are authorized to be disclosed, including but not limited to all tests, evaluations, assessments, reports, and other written information concerning the educational assessment or reassessment upon which the proposed action may be based.

(4) At least seven calendar days prior to the hearing the parent shall receive from the state residential schools a brief resume of additional material allegations referring to conduct, situations, or conditions which are discovered and found to be relevant to the issues to be contested at the hearing and which are not contained in the original notice or memorandum provided pursuant to parts 3525.6000 to 3525.6500 or part 3525.6700. If such material allegations or information relating thereto are not so disclosed, it shall be left to the person conducting the hearing to determine if those material allegations may be introduced or considered.

(5) Within seven days after written request any party shall receive from the other parties a list of witnesses who may be called to testify at the hearing. Such list shall be filed with the person(s) conducting the hearing. Such lists may be modified at any time but each party shall be notified if modification occurs.

(6) All parties or their representatives, as the case may be, shall have the right to request the attendance of any employee of the state residential schools, resident school district, or any other person who may have evidence relating to the proposed action, and to confront, and to cross-examine any such witness. Any such request shall be made to the state residential schools, and to the person whose attendance is requested at least seven days in advance of the hearing. Such written requests shall also be filed with the hearing officer at the time of hearing.

(7) The parent shall have the right to call his/her own witnesses and to present evidence, including expert medical, psychological, and educational testimony and relevant records, tests, assessments, reports, or other information.

(8) All parties shall have the right to confront and cross-examine witnesses.

(9) If the person conducting the hearing determines at the conclusion of the hearing that there remain disputes of fact which, in the interest of fairness and the child's educational needs, require the testimony of additional witnesses, or if the hearing officer concludes that alternative educational programs and opportunities have not been sufficiently considered, he or she may continue the hearing for not more than 14 days, for the purpose of obtaining the attendance of such witnesses or considering such alternative programs and opportunities. The parties' right to cross-examination and confrontation and other applicable rights and procedures set forth herein shall continue and be given full force and effect.

D. That at the hearing the burden of proof is on the state residential schools to show that the proposed action is justified on the basis of the student's educational needs or his/her current educational performance, or presenting handicapping conditions taking into account the presumption that placement in a regular public school class with special education services is preferable to removal from the regular

classroom.

E. That a record shall be kept of the hearing and a copy of the transcribed record shall be available to the parent, upon request, at the cost of the copy.

F. That the hearing officer shall make a written decision based only on evidence received and introduced into the record at the hearing. Such decisions shall be rendered not more than 45 days from the receipt of the request for the hearing. The proposed action will be upheld only upon showing by the state residential schools of a preponderance of the evidence. A proposed action that would result in the child being removed from a regular education program may be sustained only when and to the extent the nature or severity of the handicap is such that a regular education program would not be satisfactory and the child would be better served in an alternative program. Consideration of alternative regular educational programs shall also be given.

G. That the decision of the hearing officer is binding on all parties.

H. That pending the decision, the student's education program shall not be changed unless the parent and the parties agree otherwise.

I. That the parent has the right to have the child present at the hearing.

J. That the parent shall receive a copy of the hearing officer's written findings, conclusion, and decision.

MS s 128A.02 subds 2,6

3525.7000 HEARING OFFICERS.

The hearing shall take place before an impartial hearing officer appointed by the commissioner. The hearing officer shall not be a member of the State Board of Education, State Department of Education, an employee of either the student's resident school district or the state residential schools, or any person with a personal or professional interest which would conflict with his objectivity at the hearing. A person who otherwise qualifies as a hearing officer is not an employee of

the state solely because the person is paid by the State Department of Education or the state residential schools to serve as a hearing officer.

If a hearing officer requests an independent educational assessment of a child, the cost of the assessment shall be at state residential schools' expense. All expenses of the hearing, except for the parent's and resident school district's attorney's fees; the cost of a copy of the record of the hearing if requested by the parent; or other expenses incidental to the parent's, child's, or resident school district's participation in the hearing, shall be paid by the state residential schools.

The hearing officer shall be empowered to subpoena any persons or papers he/she deems necessary for an adequate review of the appropriateness of the proposed action which is the subject of the hearing.

MS s 128A.02 subds 2,6

3525.7100 PREHEARING REVIEW BY THE HEARING OFFICER.

Subpart 1. **Information received prior to hearing.** Not less than seven days prior to the hearing, the person conducting the hearing shall be mailed copies of:

A. notices and memoranda prepared by the state residential schools pursuant to parts 3525.6600 and 3525.6700 sent to the parent;

B. written information concerning the educational assessment or reassessment and copies of any parties' tests, evaluations, or other admissible reports or written information relating to such assessment or reassessment, or the proposed action;

C. a copy of the student's current and proposed individual educational program plan; and

D. other information from the state residential schools, or parent as the hearing officer may have requested at a prior date provided that a copy of such information is provided to all parties, and further provided that such information is made a part of the hearing record.

The provisions of items B and C do not apply when the

hearing concerns a proposed action to assess or reassess.

Subp. 2. **Duties of hearing officer upon receipt of information.** Upon receipt of the information set forth in subpart 1, the hearing officer:

A. shall review the same for compliance with parts 3525.4800 to 3525.7500;

B. may meet with the parties together prior to the hearing;

C. may require the state residential schools to perform an additional educational assessment or reassessment;

D. may require an independent educational assessment of the student at the expense of the state residential schools;

E. may require the state residential schools to propose an alternative individual educational program plan;

F. may require the state residential schools to send additional notice to the parent;

G. may do such additional things necessary to achieve compliance with parts 3525.4800 to 3525.7500;

H. may extend the hearing date for up to 15 days to achieve the purposes of this subpart; and

I. may grant specific extension of time beyond the 45-day period at the request of either party.

MS s 128A.02 subds 2,6

3525.7200 HEARING PROCEDURES.

The hearing officer shall preside over and conduct the hearing and shall rule on procedural and evidentiary matters, and his or her decision shall be based solely upon the evidence introduced and received into the record. The state residential schools shall bear the burden of proof as to all facts and as to grounds for the proposed action.

One purpose of the hearing is to develop evidence of specific facts concerning the educational needs, current educational performance, or presenting handicapping conditions of the person as they relate to the need for the proposed action. Consistent with the rights and procedures set forth herein, nothing in the rules shall limit the right of the

hearing officer to question witnesses or request information.

A tape recording, stenographic record, or other record of the hearing shall be made.

MS s 128A.02 subds 2,6

3525.7300 EVIDENCE AT THE HEARING.

As appropriate to the pending matter, the hearing officer shall consider evidence related to:

A. The state residential schools' decision to deny admission to the student for the purpose of providing an educational program. The state residential schools shall demonstrate by a preponderance of the evidence that based upon the schools' determination an appropriate individual educational program plan cannot be developed by the state residential schools.

B. The state residential schools' proposal to assess or reassess or refusal to assess or reassess as set forth in part 3525.5700. The state residential schools shall demonstrate by a preponderance of the evidence that the educational assessment or reassessment is justified as a step toward the possible initiation of or change in the student's educational placement or provision of services; or the state residential schools shall demonstrate by a preponderance of the evidence that refusal to assess or reassess is justified by the proximity in time, appropriateness, and adequacy of the most recent assessment or reassessment.

C. The state residential schools' proposal to initiate or refusal to initiate services as set out in the student's individual educational program plan. The state residential schools shall demonstrate by a preponderance of the evidence that the proposed action is consistent with the current educational needs of the student.

D. The state residential schools' proposal to transfer the student. The state residential schools shall demonstrate by a preponderance of the evidence that the proposed transfer is consistent with the current educational needs and presenting handicapping conditions of the student.

The hearing officer shall sustain, modify, or reject a proposed action based on consideration of all the evidence received at the hearing.

MS s 128A.02 subds 2,6

3525.7400 THE DECISION OF THE HEARING OFFICER.

Subpart 1. **Written decision within 45 days.** Not more than 45 days from the receipt of the request for a hearing, except where extensions of time have been granted and then at a time not to exceed 45 days plus the number of days added by the extensions, the hearing officer shall prepare a written decision based on evidence received and introduced into the record at the hearing. Such decision shall address itself to the following.

Subp. 2. **Decisions regarding admission.** The hearing officer shall sustain the decision to deny admission of the student to the state residential schools upon a showing by the state residential schools by a preponderance of evidence that an appropriate individual educational program plan cannot be developed by the state residential schools.

Subp. 3. **Decisions regarding assessment or reassessment.** Decisions regarding assessment or reassessment:

A. the hearing officer shall sustain a proposed assessment or reassessment of the student as set forth in part 3525.5700 upon showing by the state residential schools by a preponderance of the evidence which demonstrates that there are facts, relating to the student's performance in his/her present education placement or presenting handicapping conditions, which indicate reasonable grounds to believe that the educational assessment or reassessment procedures are justified as a step toward the possible initiation of or change in the student's educational placement or program, including special education services, which will provide an educational program appropriately suited to the student's needs;

B. the hearing officer shall sustain the refusal to assess or reassess upon a showing by the state residential schools by a preponderance of evidence which demonstrates that there are facts which indicate reasonable grounds to believe

that there has been recent and adequate assessment or reassessment of the student by qualified professionals; and

C. consistent with the standards, requirements, and principles set forth in statute and parts 3525.4800 to 3525.7500, the hearing officer shall have the authority, based on all the evidence received at the hearing, to modify the proposed assessment or reassessment procedures in order to insure compliance with the requirement of nondiscrimination.

Subp. 4. **Decisions regarding individual educational program.** Decisions regarding individual educational program plan:

A. In deciding if the proposed action is to be sustained, in whole or part, the educational needs of the student shall be determinative. However, there shall be a presumption that among alternative programs of education, that to the maximum extent appropriate, a primary placement in a regular public school class and program with appropriate special education services, is preferable to removal from the regular classroom.

B. The hearing officer shall sustain the individual educational program plan of the state residential schools upon a showing by the state residential schools by a preponderance of evidence that the student's individual educational program plan represents educational services appropriate to the student's educational needs in the least restrictive alternative. This decision shall be made in accordance with the principle of least restrictive alternative.

Subp. 5. **Decisions regarding transfer.** The hearing officer shall sustain the decision to transfer the student from placement at the state residential schools upon a showing by the state residential schools by a preponderance of evidence that the appropriate program for the student in the least restrictive alternative is no longer placement at the state residential schools.

Subp. 6. **Content of the decision.** All hearing officer decisions shall:

A. contain written findings of fact, and conclusions of law, including a statement of the controlling facts upon which the decision is made in sufficient detail to appraise the parties on the basis and reason for the decision;

B. state the amount and source of any additional state expenditures necessary to implement the decision;

C. be based on the standards and principles set forth in Minnesota Statutes, section 120.17, subdivision 3a; and

D. be binding on all parties.

Subp. 7. **Filing and mailing of decision.** All decisions shall be filed with the commissioner of education and shall be sent by mail to the parties.

MS s 128A.02 subds 2,6

3525.7500 EFFECTIVE DATE OF THE ACTION AND APPEALS.

The decision of the hearing officer shall be binding on all parties and shall become effective 30 days after service of the decision unless the decision is appealed in a civil action.

The hearing officer may grant specific extensions of time beyond the 45-day period set out in parts 3525.4800 to 3525.7500 at the request of any party provided that no extension may be granted for the filing of a civil action.

MS s 128A.02 subds 2,6

B. Resources for Parents of Handicapped Children

RESOURCES FOR PARENTS OF HANDICAPPED CHILDREN

MINNESOTA ORGANIZATIONS

Many of the following organizations, located in the Twin Cities, also have chapters elsewhere in the state. To discover if this is the case with the group in which you're interested, call the number listed by each organization. Even if no chapter exists in your area, the organization may be able to direct you to an individual parent who lives near you.

ABLE (Association for Blind Living Education), 5307 Northport Drive, Brooklyn Center, MN., 55429 (612) 537-8000

Advocate For The Blind, 1821 University Ave., Room 389 So., St. Paul, MN. 55104, (612) 645-3920

Advocating Change Together - advocacy for mentally retarded persons - 1509 Nicollet Ave., S., Mpls., MN. 55403, (612) 874-1133

American Diabetes Association, 3005 Ottawa Avenue S., St. Louis Park, MN. 55416, (612) 920-6796

American Heart Association/MN. Affiliate, 4701 W. 77th St., Mpls., MN. 55435, (612) 835-3300

Arthritis Foundation MN. Chapter, 122 Franklin Ave. W., Suite 440, Mpls., MN. 55404 (612) 874-1201, Outstate Toll Free/1-800-552-1278

Association for Retarded Citizens of Anoka County, Riverwood Community Center, 7150 E. River Rd., Room 11, fridley, MN. 55432, (612) 571-5318

Association for Retarded Citizens of Dakota County, 33 E. Wentworth Ave., W. St. Paul, MN. 55118, (612) 457-2588

Association for Retarded Citizens of Duluth, 201 Ordean Bldg., Duluth, MN. 55802, (218) 726-4725

Association for Retarded Citizens of Hennepin County, 2344 Nicollet Ave. S., Third Floor, Mpls., MN. 55404, (612) 847-6650

Association for Retarded Citizens of Minnesota, 3225 Lyndale S., Minneapolis, MN. 55408. For ARC contacts in 62 areas not listed, please call (612) 827-5641, toll free 1-800-582-5256

Association for Retarded Citizens of St. Paul, 65 E. Kellogg Blvd., Suite 437, St. Paul, MN. 55101, (612) 224-3301

ARRM (Association of Residences for the Retarded in Minnesota), 1885 University Ave., St. Paul, MN. 55104, (612) 644-8181, toll free 1-800-551-2211
Comprehensive Epilepsy Program, 2701 University Avenue S.E., Suite 106, Mpls., MN. 55414, (612) 376-5031

Courage Center (formerly MN. Society For Crippled Children and Adults), 3915 Golden Valley Road, Golden Valley, MN. 55422, (612) 588-0811

Cystic Fibrosis Foundation, 2344 Nicollet Ave., Suite 150, Mpls., MN. 55404, (612) 871-0462, toll free 1-800-582-5245

Family-Interest-Group-Head-Trauma (FIGHT), 432 2nd St., Box 375, Excelsior, MN. 55331, (612) 474-1873

Feingold Association of Minnesota - organization for parents of hyperactive children - 381 E. Cook St., St. Paul, MN. 55101, (612) 774-8887

Friends of Hearing Handicapped Children, P.O. Box 3414, St. Paul, MN. 55165, (612) 457-5340

Hemophilia Foundation MN. Chapter, 2312 S. 6th St., Mpls., MN. 55454, (612) 376-2752

Kidney Foundation of the Upper Midwest, 1821 University Ave., Room S360, St. Paul, MN. 55104, (612) 645-8605

Legal Advocacy for the Developmentally Disabed of Minnesota, 222 Grain Exchange Building, 323 4th Avenue S., Minneapolis, MN. 55415, (612) 338-0968 or 1-800-292-4150

Mental Health Advocates Coalition of MN., 265 Fort Road, St. Paul, MN. 55102, (612) 222-2741

Mental Health Association of MN., 5501 Green Valley Drive, Suite 103, Mpls., MN. 55437, (612) 835-9046

Metro Center for Independent Living, 1728 University Avenue, St. Paul, MN. 55104, (612) 835-9046

Mpls. Association for the Hearing Impaired, Katherine Marfield, 4603 Wentworth, Mpls., MN. 55409, (612) 824-5608, TDD (612) 881-2842

MN. Association for Children with Learning Disabilities, 1821 University Ave., Room 494 N., St. Paul, MN. 55104, (612) 646-6136

MN. Committee for the Handicapped, - umbrella organization for legislative concerns - 2527 Monterey Ave. S., St. Louis Park, MN. 55416, (612) 922-4544

Minnesota Council for the Gifted and Talented, 5701 Normandale Road, Box 70, Mpls., MN. 55424, (612) 927-9546

Minnesota Epilepsy League, 242 Citizens Aid Bldg., 404 S. 8th St., Mpls., MN. 55404, (612) 340-7630, toll free 1-800-292-7932

Minnesota Foundation for Better Hearing and Speech, 508 Bremer Building, 7th & Robert St., St. Paul, MN. 55101, (612) 222-6866 TDD & Voice

MN. Speech-Language & Hearing Association, P.O. Box 26605, St. Louis Park, MN. 55426, (612) 935-5057

MN. State Council for the Handicapped, Metro Square Building, Suite 208, 7th & Robert St., St. Paul, MN. 55101, (612) 296-6785 TDD & Voice; Toll free number 1-800-652-9747 TDD & Voice

MN. Radio Talking Book Network Communication Center, - a free, closed circuit radio reading service and special library services, leisure and educational - 1745 University Ave., St. Paul, MN. 55104, (612) 296-6723

MN. West-Metro Chapter, National Society for Autistic-Children, 5624 73rd Avenue N., Brooklyn Park, MN. 55429, (612) 560-5330

Muscular Dystrophy Association, 1821 University Ave., N. 170, St. Paul, MN. 55104, (612) 646-7557

National Ataxia Foundation, 600 Twelve Oak Center, 15500 Wayzata Boulevard, Wayzata, MN. 55391, (612) 473-7666

National Federation of the Blind of Minnesota, Chamber of Commerce Building, Suite 715, 15 S. 5th, Mpls., MN. 55402, (612) 332-5414

National Multiple Sclerosis Society, North Star Chapter 2344 Nicollet Ave., Suite 280, Mpls., MN. 55404, (612) 870-1500

Osteogenesis Imperfecta Assocation, American Brittle Bone Society, 1800 Douglas Avenue S., Mpls., MN. 55403, (612) 377-0035

PACER Center (Parent Advocacy Coalition for Educational Rights), 4826 Chicago Avenue, Minneapolis, MN. 55417, (612) 827-2966, voice & TTY

Parents of Cleft Children, Minnesota Department of Health, P.O. Box 9441, 717 Delaware St., S.E., Mpls., MN. 55440, (612) 623-5174

Parents for Heart, 13512 B County Road 15, Plymouth, MN. 55441, (612) 545-5562

Prader-Willi Syndrome Assoc., 5515 Malibu Dr., Edina, MN. 55436, (612) 933-0113

Spina Bifida Association of Minnesota, P.O. Box 29323, Brooklyn Center, MN. 55429, (612) 455-6588, toll free 1-800-621-3141

Tourette Syndrome Association, Minnesota Chapter, 3403 Red Oak Circle N., Burnsville, MN. 55337, (612) 890-9404

Tuberous Sclerosis in Minnesota, 2986 N. Howard, Maplewood, MN. 55109, (612) 777-4833

Twin Cities Society for Autistic Children, 1729 Carroll Ave., St. Paul, MN. 55104, (612) 642-9042

United Cerebral Palsy Association of Minnesota, 1821 University Ave., 233 S., St. Paul, MN. 55104, (612) 646-7588

United Handicapped Federation, 1821 University Ave., Suite 284 S., St. Paul, MN. 55104, (612) 645-8922, TDD & Voice

STATE AGENCIES

Developmental Disabilities State Planning Office, 201 Capitol Square, 550 Cedar St., St. Paul, MN. 55101, (612) 296-4018

Division of Vocational Rehabilitation, Space Center Building, 444 Lafayette Road, St. Paul, MN. 55101, (612) 296-5616

Minnesota State Department of Education, Special Education division, 809 Capitol Square Building, 550 Cedar St., St. Paul, MN. 55101, (612) 296-4163

Minnesota Department of Human Services, 4th Floor Centennial Office Building, 658 Cedar St., St. Paul, MN. 55155, (612) 296-6013 (Developmental Achievement Centers, day care facilities, and nursery schools are licensed by the Department of Human Services.)

Services for Children with Handicaps, Minnesota Department of Health, 717 S.E. Delaware St., P.O. Box 9441, Mpls., MN. 55440, (612) 623-5150 (Provides free assessments for children with certain handicaps from birth through 21 and may pay for treatment.)

State Services for the Blind and Visually Handicapped, 1745 University Avenue, St. Paul, MN. 55104, (612) 296-6080

State Services for the Deaf, Department of Human Services, 4th Floor, Centennial Building, 658 Cedar St., St. Paul, MN. 55155, (612) 296-3980 and (612) 296-3637; TDD (612) 296-4850

NATIONAL ORGANIZATIONS AND AGENCIES

American Coalition of Citizens with Disabilities, 1346 Connecticut Ave., N.W., Suite 1124, Washington D.C. 20036

Alexander Graham Bell Association for the Deaf, 3416 Volta Place N.W., Washington, D.C. 20007

Center for Law and Education, Gutman Library, 6 Appian Way, Cambridge, MA. 02138

Center on Human Policy, 216 Ostrom Avenue, Syracuse, N.Y. 13210

Council for Exceptional Children (CEC), 1920 Association Drive, Reston, VA. 22091

Mental Health Law Project, 1220 19th St. N.W., Washington, D.C. 20036

National Association for the Deaf, Legal Defense Fund, Florida Avenue & 7th St. N.E., Suite 311, Washington, D.C. 20002

National Association of the Deaf, 814 Thayer Avenue, Silver Springs, MD. 20910

National Center for the Law & the Handicapped, 211 W. Washington St., Suite 1900, South Bend, IN. 46601, (219) 288-4751 (Voice & TDD)

National Easter Seal Society for Crippled Children & Adults, 2023 W. Odgen Ave., Chicago, Illinois 60612

FOR SPECIAL QUESTIONS:

One Minnesota agency, PACER Center, Inc. works with parents of children with all handicaps (mental, physical, emotional, and learning) and is specifically concerned with questions about:

1. special education laws, regulations, and rules;
2. parents'/surrogate parents' rights and responsibilities in the special education process;
3. effective advocacy by parents on their children's behalf; and
4. appropriate special educational programs for each individual child.

PACER can be contacted for more information on the topics covered in this book and for further explanation of sections that may seem unclear to you. Most of the PACER staff are themselves parents of handicapped children. In addition to parent advocates who can offer individual assistance over the phone or during personal visits to the PACER office, the Center has a wide variety of informational materials, many of which are free to parents/surrogate parents of handicapped children who live in Minnesota.

For more information, contact: PACER Center, Inc.
4826 Chicago Avenue
Minneapolis, MN. 55417
(612) 827-2966, Voice & TDD
(Parents/surrogate parents from outside the metro area may call PACER collect.)

Another agency, Legal Advocacy for the Developmentally Disabled of Minnesota, can offer legal advice about issues concerning handicapped children and adults. This office does have attorneys on its staff and can be contacted when questions arise that involve legal interpretations and/or possible legal actions (for instance, by a parent who is considering requesting a due process hearing.)

Contact: Legal Advocacy for the Developmentally Disabled of Minnesota
222 Grain Exchange Building
323 4th Avenue S.
Minneapolis, MN. 55415
(612) 338-0968
1-800-292-4150 (toll free number)

C. Suggested Books for Future Reading

Suggested Books for Future Reading

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2. Advocacy----------Page 3
3. Assertiveness----------Pages 3-4
4. Autism----------Pages 4-5
5. Blind----------Page 5
6. Deaf and Hard of Hearing----------Pages 6-7
7. Emotional Disturbance----------Pages 7-8
8. Epilepsy----------Pages 8-9
9. Learning Disabilities----------Page 9
10. Mental Retardation----------Pages 10-11
11. Physically Handicapped----------Pages 11-12
12. Preschool----------Pages 12-13
13. Speech----------Page 13
14. Vocational Education----------Pages 13-14
15. Books for Children----------Page 15

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Bookbinder, Susan. Mainstreaming--What Every Child Needs to Know About Disabilities. Boston: Exceptional Parent Press.

Buscaglia, Leo. The Disabled and Their Parents: A Counseling Challenge. Charles B. Slack, 1975. A strong documented appeal to all people in the helping professions.

Cleary, Margaret. Please Know Me As I Am. 25 Ronald Road, Sudbury, Mass: Jerry Cleary Company. This book has suggestions for teachers and ideas for sensitizing nonhandicapped kids to the needs of handicapped children.

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D. An Excerpt from FERPA Regulations

From the federal regulations that implement FERPA (the Family Education Rights and Privacy Act), Public Law 93-380:

99.31 PRIOR CONSENT FOR DISCLOSURE NOT REQUIRED

(a) An educational agency or institution may disclose personally identifiable information from the education records of a student without the written consent of the parent of the student or the eligible student if the disclosure is--

(1) To other school officials, including teachers, within the educational institution or local educational agency who have been determined by the agency or institution to have legitimate educational interests;

(2) To officials of another school or school system in which the student seeks or intends to enroll, subject to the requirements set forth in 99.34;

(3) Subject to the conditions set forth in 99.35, to authorized representatives of:

(i) The Comptroller General of the United States,

(ii) The Secretary, or

(iii) State educational authorities;

(4) In connection with financial aid for which a student has applied or which a student has received; PROVIDED, That personally identifiable information from the education records of the student may be disclosed only as may be necessary for such purposes as:

(i) To determine the eligibility of the student for financial aid,

(ii) To determine the amount of the financial aid, or

(iii) To determine the conditions which will be imposed regarding the financial aid, or

(iv) To enforce the terms or conditions of the financial aid;

(5) To State and local officials or authorities to whom information is specifically required to be reported or disclosed pursuant to State statute adopted prior to November 19, 1974. This paragraph applies only to statutes which require that specific information be disclosed to State or local officials and does not apply to statutes which permit but do not require disclosure. Nothing in this paragraph shall prevent a State from further limiting the number or type of State or local officials to whom disclosures are made under this paragraph;

(6) To organizations conducting studies for, or on behalf of, educational agencies or institutions for the purpose of developing, validating, or administering predictive tests, administering student aid programs, and improving instruction; PROVIDED, That the studies are conducted in a manner which will not permit the personal identification of students and their parents by individuals

other than representatives of the organization and the information will be destroyed when no longer needed for the purposes for which the study was conducted; the term "organizations" includes, but is not limited to, Federal, State and local agencies, and independent organizations;

(7) To accrediting organizations in order to carry out their accrediting functions;

(8) To parents of a dependent student, as defined in section 152 of the Internal Revenue Code of 1954;

(9) To comply with a judicial order or lawfully issued subpoena; PROVIDED, That the educational agency or institution makes a reasonable effort to notify the parent of the student or the eligible student of the order or subpoena in advance of compliance therewith; and

(10) To appropriate parties in a health or safety emergency subject to the conditions set forth in 99.36;

(b) This section shall not be construed to require or preclude disclosure of any personally identifiable information from the education records of a student by an educational agency or institution to the parties set forth in paragraph (a) of this section.

(34 Code of Federal Regulations, Part 99)